

ATTACHMENT 4A

Final LSAA

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CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
REGION 1 – NORTHERN REGION
619 Second Street
Eureka, CA 95501

JUL 25 2016

CDFW - EUREKA



STREAMBED ALTERATION AGREEMENT

NOTIFICATION No. 1600-2016-0057-R1

Unnamed Tributaries, Tributary to Fish Creek, Tributary to the South
Fork Eel River, Tributary to the Eel River and the Pacific Ocean

Mr. Ivan Stoyanov
Stoyanov Water Diversion, Stream Crossing, Pond Spillway and
Erosion Control Project
5 Encroachments

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Mr. Ivan Stoyanov (Permittee).

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, the Permittee initially notified CDFW on February 17, 2016, with additional information received on June 13, 2016, that the Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, the Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, the Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

The project to be completed is located within the South Fork Eel River watershed, approximately .75 miles east of the town of Miranda, County of Humboldt, State of California. The project is located in Section 2, T3S, R3E, Humboldt Base and Meridian; in the Miranda U.S. Geological Survey 7.5-minute quadrangle; Assessor's Parcel Number 212-201-09; latitude 40.2331 N and longitude 123.8096 W at the Point of Diversion (POD-1), and latitude 40.2329 N and longitude 123.8096 W at POD-2.

PROJECT DESCRIPTION

The project is limited to five encroachments (table 1). The encroachments include two locations for water diversion, a culvert removal on a Class II stream that includes road decommissioning, maintenance of a Class III stream to reduce erosion, and sediment removal and installation of a spillway for an off-channel pond.

Water diversion from a spring will be used for domestic use. Another location within a Class II stream will be used for water diversion to supply irrigation storage in the high flow season. The spring utilized for water diversion is impacted by unpermitted excavation of two small impoundments, and will require backfilling with clean washed gravel to provide habitat and structural stability. An undersized and short culvert on a Class II watercourse will be removed, and the road at that location will be decommissioned. A Class III stream will be diverted into a Class II stream to minimize erosion. Finally, an off-stream pond will be excavated to remove fine sediment. The pond will have a spillway installed to direct overflow and reduce potential erosion.

Table 1. Project Points.

ID	Latitude/Longitude	Description
POD	40.2331, -123.8096	Water diversion from a Class II spring for domestic use
POD	40.2329, -123.8096	Water diversion from a Class II stream for irrigation
Pond Excavation and Spillway	40.2327, -123.8107	Excavate fine sediment from the pond and install an engineered spillway for the pond
Class III stream diversion	40.2324, -123.8100	Redirection of Class III stream towards Class II stream via a rock lined ditch and minimum 18" diameter culvert
Culvert	40.2323, -123.8096	Remove undersized failing culvert and decommission crossing

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: Chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*O. kisutch*), steelhead trout (*O. mykiss*), amphibians, reptiles, aquatic invertebrates, mammals, birds, and other aquatic and riparian species.

The adverse effects the project could have on the fish or wildlife resources identified above include:

Impacts to bed, channel, or bank and effects on habitat structure:

soil compaction or other disturbance to soil layer;
temporary increase in fine sediment transport;

Impacts to water quality:

increased water temperature;
reduced instream flow;
temporary increased turbidity;

Impacts to bed, channel, or bank and direct effects on fish, wildlife, and their habitat:

loss or decline of riparian habitat;
direct impacts on benthic organisms;

Impacts to natural flow and effects on habitat structure and process:

cumulative effect when other diversions on the same stream are considered;
diversion of flow from activity site;
direct and/or incidental take;
indirect impacts;
impediment of up- or down-stream migration;
water quality degradation; and
damage to aquatic habitat and function.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

The Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. The Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. The Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of the Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Adherence to Existing Authorizations. All water diversion facilities that the Permittee owns, operates, or controls shall be operated and maintained in accordance with current law and applicable water rights.
- 1.4 Change of Conditions and Need to Cease Operations. If conditions arise, or change, in such a manner as to be considered deleterious to the stream or wildlife, operations shall cease until corrective measures approved by CDFW are taken. This includes new information becoming available that indicates that the bypass

flows and diversion rates provided in this agreement are not providing adequate protection to keep aquatic life downstream in good condition or to avoid "take" or "incidental take" of federal or State listed species.

- 1.5 Notification of Conflicting Provisions. The Permittee shall notify CDFW if the Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact the Permittee to resolve any conflict.
- 1.6 Project Site Entry. The Permittee agrees to allow CDFW employees access to any property it owns and/or manages for the purpose of inspecting and/or monitoring the activities covered by this Agreement, provided CDFW: a) provides 24 hours advance notice; and b) allows the Permittee or representatives to participate in the inspection and/or monitoring. This condition does not apply to CDFW enforcement personnel.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, the Permittee shall implement each measure listed below.

- 2.1 Permitted Project Activities. Except where otherwise stipulated in this Agreement, all work shall be in accordance with the Permittee Notification received with fees paid in full on February 17, 2016, with updated information received June 13, 2016, together with all maps, BMPs, photographs, drawings, and other supporting documents submitted with the Notification.
- 2.2 Work Period. Except for water diversion, all work shall be confined to the period June 1 through October 1 of each year. Work within the active channel of a stream shall be restricted to periods of **dry weather**. Precipitation forecasts and potential increases in stream flow shall be considered when planning construction activities. Construction activities shall cease and all necessary erosion control measures shall be implemented prior to the onset of precipitation.
- 2.3 Coffer Dams. Prior to the start of construction and if water is present in the stream, the Permittee shall divert the stream around or through the work area and the work area shall be isolated from the flowing stream. To isolate the work area, water tight coffer dams shall be constructed upstream and downstream of the work area and water diverted, through a suitably sized pipe, from upstream of the upstream coffer dam and discharge downstream of the downstream coffer dam. Coffer dams shall be constructed of a non-erodible material which does not contain soil or fine sediment. Coffer dams and the stream diversion system shall remain in place and functional throughout the construction period. Coffer dams or stream diversions that fail for any reason shall be repaired immediately.

- 2.4 Vegetation Disturbance. Vegetation disturbance shall not exceed the minimum necessary to perform the work.
- 2.5 Excavated Fill. Excavated fill material shall be placed in locations where it cannot deliver to a watercourse. To minimize the potential for material to enter the watercourse during the winter period, all excavated and relocated fill material shall be tractor contoured (to drain water) and tractor compacted to effectively incorporate and stabilize loose material into existing road and/or landing features.
- 2.6 Culvert Installation.
- 2.6.1 Existing fill material in the crossing shall be excavated down vertically to the approximate original channel and outwards horizontally to the approximate crossing hinge points (transition between naturally occurring soil and remnant temporary crossing fill material) to remove any potential unstable debris and voids in the older fill prism.
- 2.6.2 Culvert shall be installed to grade, aligned with the natural stream channel, and extend lengthwise completely beyond the toe of fill. If culvert cannot be set to grade, it shall be oriented in the lower third of the fill face, and a downspout or energy dissipator (such as boulders, rip-rap, or rocks) shall be installed above or below the outfall as needed to effectively control stream bed, channel, or bank erosion (scouring, headcutting, or downcutting).
- 2.6.3 Culvert bed shall be composed of either compacted rock-free soil or gravel. Bedding beneath the culvert shall provide for even distribution of the load over the length of the pipe, and allow for natural settling and compaction to help the pipe settle into a straight profile. The crossing backfill materials shall be free of rocks, limbs, or other debris that could allow water to seep around the pipe, and shall be compacted.
- 2.6.4 Culvert inlet, outlet (including the outfall area), and fill faces shall be armored where stream flow, road runoff, or rainfall energy is likely to erode fill material and the outfall area.
- 2.6.5 Permanent culverts shall be sized to accommodate the estimated 100-year flood flow [i.e. ≥ 1.5 times the width of the active (bankfull) channel width or the 100-year flood size, whichever is greater], including debris, culvert embedding, and sediment loads.
- 2.7 Runoff from Steep Areas. The Permittee shall make preparations so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential or contained behind erosion control structures. Erosion control structures such as straw bales and/or siltation control fencing shall be placed and maintained until the threat of erosion ceases. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.

- 2.8 Stream Protection. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other deleterious material from project activities shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into the stream. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.
- 2.9 Equipment Maintenance. Refueling of machinery or heavy equipment, or adding or draining oil, lubricants, coolants or hydraulic fluids shall not take place within stream bed, channel and bank. All such fluids and containers shall be disposed of properly off-site. Heavy equipment used or stored within stream bed, channel and bank shall use drip pans or other devices (e.g., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.
- 2.10 Hazardous Spills. Any material, which could be hazardous or toxic to aquatic life and enters a stream (i.e. a piece of equipment tipping-over in a stream and dumping oil, fuel or hydraulic fluid), the Permittee shall immediately notify the California Emergency Management Agency State Warning Center at 1-800-852-7550, and immediately initiate clean-up activities. CDFW shall be notified by the Permittee within 24 hours at 707-445-6493 and consulted regarding clean-up procedures.
- 2.11 Project Inspection. The Project shall be inspected by Timber Resource Consultants or a licensed Professional Engineer to ensure that the crossings and pond were built as designed. A copy of the inspection report shall be submitted to CDFW within 90 days of completion of this project.

Water Diversion

- 2.12 Maximum Diversion Rate. The maximum instantaneous diversion rate from the water intake shall not exceed 3 gallons per minute. The instantaneous diversion rate shall not exceed 20% of the total flow at any time. This condition is subject to modification should further analysis warranting such action become available at a later date.
- 2.13 Bypass Flow. The Permittee shall pass sufficient flow at all times to keep all aquatic species including fish and other aquatic life in good condition below the point of diversion.
- 2.14 Forbearance Period – Irrigation. The Permittee shall add sufficient water storage and/or water conservation measures by May 15, 2016, and the Permittee shall forbear diverting spring flow for irrigation from May 15 to October 15 of each year beginning in 2016.
- 2.15 Domestic Water Use. Water diverted during the irrigation forbearance period shall be used strictly for domestic use. **No more than 200 gallons per day shall be**

diverted for domestic use during the forbearance period beginning May 15, 2016.

- 2.16 Measurement of Diverted Flow. The Permittee shall install a device acceptable to CDFW for measuring the quantity of water diverted to and from the storage system. This measurement shall begin as soon as this Agreement is signed by the Permittee. The Permittee shall record the quantity of water pumped to and from the system on a weekly basis. Alternatively, the Permittee can record the frequency of pumping and the time to fill storage.
- 2.17 Intake Structure. No polluting materials (e.g., particle board, plastic sheeting, bentonite) shall be used to construct or screen, or cover the diversion intake structure.
- 2.18 Intake Shall Not Impede Aquatic Species Passage. The water diversion structures shall be designed, constructed, and maintained such that they do not constitute a barrier to upstream or downstream movement of aquatic life.
- 2.19 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.
- 2.20 Water Storage Maintenance. Storage tanks shall have a float valve to shut off the diversion when tanks are full to prevent overflow from being diverted when not needed. The Permittee shall install any other measures necessary to prevent overflow of tanks resulting in more water being diverted than is used.
- 2.21 State Water Code. This Agreement does not constitute a valid water right. The Permittee shall comply with State Water Code sections 5100 and 1200 et seq. as appropriate for the water diversion and water storage. The application for this registration is found at:
http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/sdu_registration.pdf.

3. Reporting Measures

- 3.1 Copies of the **water diversion records** shall be submitted to CDFW at 619 Second Street, Eureka, CA 95501 office **no later than December 31 of each year beginning in 2016**.
- 3.2 Project Inspection. A copy of the inspection report (section 2.10) **shall be submitted to CDFW within 90 days of completion of this project**.

CONTACT INFORMATION

Any communication that the Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by

U.S. mail, fax, or email, or to such other address as the Permittee or CDFW specifies by written notice to the other.

To Permittee:

Mr. Ivan Stoyanov
5113 Pontigo Glen Drive
Plainfield, IL 60586
707-298-8422

To CDFW:

Department of Fish and Wildlife
Northern Region
619 Second Street
Eureka, California 95501
Attn: Lake and Streambed Alteration Program
Notification #1600-2016-0057-R1

LIABILITY

The Permittee shall be solely liable for any violation of the Agreement, whether committed by the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require the Permittee to proceed with the project. The decision to proceed with the project is the Permittee's alone.

SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety this Agreement if it determines that the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide the Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide the Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to the Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against the Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 *et seq.* (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes the Permittee or any person acting on behalf of the Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

The Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and the Permittee. To request an amendment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective,

unless the transfer or assignment is requested by the Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, the Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), the Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, the Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with FGC 1605(b) through (e).

If the Permittee fails to submit a request to extend the Agreement prior to its expiration, the Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (FGC section 1605(f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after the Permittee signature; 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall **expire five years** from date of execution, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. The Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of the Permittee, the signatory hereby acknowledges that he or she is doing so on the Permittee's behalf and represents and warrants that he or she has the authority to legally bind the Permittee to the provisions herein.

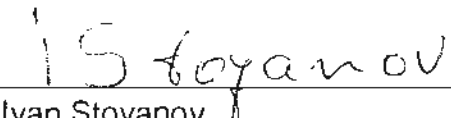
AUTHORIZATION

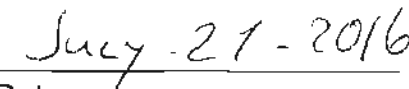
This Agreement authorizes only the project described herein. If the Permittee begins or completes a project different from the project the Agreement authorizes, the Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.

CONCURRENCE


The undersigned accepts and agrees to comply with all provisions contained herein.

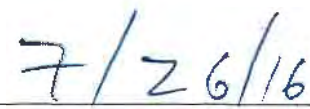
FOR Mr. Ivan Stoyanov


Ivan Stoyanov


Date

FOR DEPARTMENT OF FISH AND WILDLIFE


Gordon Leppig
Senior Environmental Scientist Supervisor


Date