



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 95434
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



December 13, 2023

Frances Knapczyk
Napa County Resource Conservation District
1303 Jefferson Street, Suite 500B
Napa, CA 95559

Dear Ms. Knapczyk:

Final Lake or Streambed Alteration Agreement, EPIMS Notification No. EPIMS-NAP-38992-R3, Sulphur Creek Fish Passage Improvement Project

Attached is the final Streambed Alteration Agreement (Agreement) for the Sulphur Creek Fish Passage Improvement Project (Project). Before the California Department of Fish and Wildlife (CDFW) may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, CDFW determined your Project is exempt from CEQA and filed a Notice of Exemption (NOE) on the same date it signed the Agreement.

Under CEQA, the filing of an NOE triggers a 35-day statute of limitations period during which an interested party may challenge the filing agency's approval of the Project. You may begin the Project before the statute of limitations expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

If you have any questions regarding this letter, please contact Matt Erickson, Environmental Scientist at (707) 210-7007 or by email at Matt.Erickson@Wildlife.ca.gov.

Sincerely,

Craig J. Weightman, Environmental Program Manager

cc: California Department of Fish and Wildlife

Matt Erickson, Environmental Scientist
Bay Delta Region
Matt.Erickson@Wildlife.ca.gov

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
BAY DELTA REGION
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534



STREAMBED ALTERATION AGREEMENT
NOTIFICATION NO. EPIMS-NAP-38992-R3
SULPHUR CREEK

NAPA COUNTY RESOURCE CONSERVATION DISTRICT
SULPHUR CREEK FISH PASSAGE IMPROVEMENT PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Napa County Resource Conservation District (Permittee) as Represented by Frances Knapczyk (designated representative) acting on behalf of Permittee.

RECITALS

WHEREAS, pursuant to Fish and Game Code section 1602, Permittee notified CDFW June 27, 2023 that Permittee intends to complete the project described herein.

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

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

PROJECT LOCATION

The project is located at Sulphur Creek, a tributary to the Napa River, in the County of Napa, State of California; Latitude 38.4879, Longitude 122.4816, 2959 White Sulphur Spring Road, St. Helena, CA 94574; Assessor's Parcel Number [APN] 027-*020-051-000.

PROJECT DESCRIPTION

The project is limited to removing the existing fish ladder, grouted rock apron, concrete curb, and replacing the existing bridge with a larger spanning bridge that would not confine flow and that would support a neutral channel bed through the opening, and restoring 660 feet of the channel upstream and downstream of the bridge to equilibrium gradient, smoothing out the current break in the channel profile. The cable on the rock weir would be cut and the rocks would be buried with engineered streambed material (ESM) per CDFW design guidance.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include:

- Steelhead trout – central California coast DPS
- California freshwater shrimp
- Northern Spotted Owl
- Chinook Salmon
- Pallid bat
- Western pond turtle
- Western red bat
- Pacific lamprey
- River lamprey
- California red-legged frog
- Foothill yellow-legged frog
- Yellow warbler
- Other aquatic organisms
- Nesting birds
- Water quality
- Various plant species

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

- Temporary occupancy of the work area could temporarily displace species
- Disturbance of nesting migratory birds or raptors
- Alter the existing drainage pattern of the site in a manner which would result in erosion on- or off-site
- Soil compaction or other disturbance
- Change in stream flow
- Change in channel cross section
- Loss of in-stream habitat
- Increase of bank erosion during construction
- Increased turbidity
- Disturbance from project activity
- Dewatering
- Direct take of fish and other aquatic species

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) or CEQA Statutory Exemption for Restoration Projects

(SERP) 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. 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 Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify CDFW if 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 Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that CDFW personnel may enter the project site at any time to verify compliance with the Agreement.
- 1.5 Notify CDFW Prior to Work. The Permittee shall notify CDFW by email at least five working days prior to commencement of covered activities. See contact information below (condition 2.2).
- 1.6 Final Construction Plans. The Permittee shall provide CDFW with a construction ready set of plans prior to the commencement of work. Any changes or modifications to the plans shall be provided to CDFW for review.
- 1.7 No Trespass. To the extent that any provisions of this Agreement provide for activities that require the Permittee to traverse another owner's property, such provisions are agreed to with the understanding that the Permittee possesses the legal right to so traverse. In the absence of such right, any such provision is void.
- 1.8 Communication. The Permittee shall have dependable radio or phone communication on-site to be able to report any accidents or incidents that might occur.

2. Avoidance and Minimization Measures

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

- 2.1 Work Period. Work within the stream zone is restricted to the period of June 1 through October 31.
- 2.2 Day to Day Extension. If the Permittee needs more time to complete the authorized activity, the work period may be extended on a day-to-day basis by Matt Erickson, Environmental Scientist at (707) 210-7007, or, alternatively, by the Fairfield office at (707) 428-2002.

- 2.3 Work During Dry Weather Only. The work period for completing the work within the stream zone shall be restricted to periods of minimal stream flow and dry weather. Permittee shall monitor the National Weather Service forecast for the area and no work shall begin unless a no precipitation forecast is obtained covering the entire time necessary to halt operations and implement all appropriate measures to prevent the delivery of fine sediments to the stream prior to the onset of rainfall. This forecast shall be documented upon request by CDFW. Redundant erosion control measures shall be installed prior to any forecast precipitation events.
- 2.4 Demarcate Work Area Boundary. In consultation with the Designated Biologist the Permittee shall demarcate the perimeter of the work area to prevent damage to habitat and to provide visual orientation to its limits. Marking shall be in place during all periods of operation and shall be wildlife compatible. All persons employed or otherwise working on the project site shall be instructed about the restrictions that the marking represents. Work boundary demarcation shall be removed as soon as possible after completion of work.
- 2.5 Staging and Access. The number of access routes, number and size of staging areas, and the total area of the work site activity shall be limited to the minimum necessary to complete the restoration action while minimizing riparian disturbance without affecting less stable areas, which may increase the risk of channel instability. Existing roads shall be used to access work sites as much as practicable.
- 2.6 Work According to Plans. Except as they are contradicted by measures required by this Agreement, all work shall be conducted in conformance with the project description, avoidance, minimization, and mitigation measures provided in the notification package. Work shall also be conducted in conformance with the submitted plans.
- 2.7 Daylight Hours. All project activities shall be confined to daylight hours.
- 2.8 Fill Removal. Temporary fill shall be removed in its entirety prior to close of work-window.

Wildlife Protection and Prevention

- 2.9 Agreement Does Not Authorize Take of Listed Species. The Permittee shall comply with all applicable state and federal laws, including the California and Federal Endangered Species Act. This Agreement does not authorize the take of any state or federally endangered listed species. Liability for any take or incidental take of such species remains the responsibility of the Permittee for the

duration of the project. Any unauthorized take of listed species may result in prosecution and nullification of the Agreement.

- 2.10 Habitat Improvements. All habitat improvements shall be done in accordance with techniques in the *California Salmonid Stream Habitat Restoration Manual*. The most current version of the manual is available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=22610&inline>.
- 2.11 Designated Biologist. At least fifteen (15) days before initiating ground- or vegetation-disturbing activities, the Permittee shall submit to the CDFW in writing the name, qualifications, business address, and contact information for a biological monitor (Designated Biologist). Permittee shall obtain CDFW's written approval of the Designated Biologist prior to the commencement of project activities in the stream. The Designated Biologist shall be knowledgeable and experienced in the biology and natural history of local fish and wildlife resources present at the project site. The Designated Biologist shall be responsible for monitoring all project activities, including construction and any ground- or vegetation-disturbing activities in areas subject to this agreement.
- 2.12 Biological Monitor On-site. The Permittee shall designate a person to monitor on-site compliance with all conditions of this Agreement. The monitor shall have received training in special status species identification and shall have the authority to halt project activities in order to comply with the terms of this Agreement and otherwise avoid impacts to species and or habitats.
- 2.13 Breeding Bird Survey Before Commencement. If construction, grading, or other project-related improvements are scheduled during the nesting season of protected raptors and migratory birds (typically February 15 to August 15 for small bird species such as passerines; February 1 through July 31 for spotted owls; and April 1 through September 15 for marbled murrelet), a focused survey for active bird nests shall be conducted by a qualified biologist (as determined by a combination of academic training and professional experience in biological sciences and related resource management activities) within 15 days prior to the beginning to project-related activities. The results of the survey shall be submitted to CDFW. If active nest are found, the Permittee shall consult with CDFW and the United States Fish & Wildlife Service (FWS) regarding appropriate action to comply with the Migratory Bird Treaty Act of 1918 and the Fish & Game Code of California, section 3503. If a lapse in project-related work of 15 days or longer occurs, another focused survey and if required, consultation with CDFW and FWS, will be required before project work can be reinitiated.
- 2.14 Wildlife Encounters. If any wildlife is encountered during the course of project activities, said wildlife shall be allowed to leave the area unharmed and on their own volition. This authorization does not allow for the trapping, capture, or

relocation of any state or federally listed species unless otherwise allowed by this agreement.

Creek Work

- 2.15 No operations within flowing water or wetted pools. Work must be performed in isolation from the flowing or ponded stream. If water is present within the stream the Permittee shall notify CDFW that diversion will be necessary. To isolate the work area, watertight coffer dams shall be constructed upstream of the work area and water diverted through a suitably sized pipe from upstream of the coffer dam and discharged downstream of the work area. Coffers shall be constructed of a non-erodible material which does not contain soil or fine sediment. Coffers and the stream diversion system shall remain in place and functional throughout the construction period. If the coffer dams or stream diversion fail, they shall be repaired immediately. Normal flows shall be restored to the affected stream immediately upon completion of work at that location. Diversion shall be conducted such that water at the downstream end does not scour the channel bed or banks. No other diversion method shall be used without authorization of CDFW. If another diversion method is preferred, the Permittee must submit a plan detailing the desired diversion method. Authorization of any other diversion method shall be at the discretion of CDFW.
- 2.16 Dewatering Limit. Projects shall not disturb or dewater more than 500 feet of contiguous stream reach unless prior authorization provided by the CDFW contact.
- 2.17 Divert Water Around Work Areas. Work shall be performed in isolation from the creek. If water is present then the Permittee shall construct coffer dams upstream and downstream of the work site and divert all flow from upstream of the upstream dam to a CDFW approved location, through a suitably sized pipe. If possible, gravity flow is the preferred method of water diversion. If a pump is used, it shall be operated at the rate of flow that passed through the site; pumping rates shall not dewater or impound water on the upstream side of the coffer dam. Coffers shall be constructed as close as practicable upstream and downstream of the work area using clean gravel bags. The stacked gravel bags may be sealed with plastic sheeting. All coffer dam materials shall be removed from the creek upon project completion within a timely manner. Normal flows shall be restored to the affected creek immediately upon completion of work at that location. If the coffer dams or stream diversion fail, they shall be repaired immediately. Diversion shall be conducted such that water at the downstream end does not scour the channel bed or banks. No other diversion method shall be used without authorization of the CDFW. If another diversion method is preferred, the Permittee must submit a plan detailing the desired

diversion method. Authorization of any other diversion method shall be at the discretion of the CDFW.

- 2.18 Capture and Relocation Plan. If it is possible that water will be present at the time of sediment removal, Permittee shall submit a plan for dewatering activities and aquatic species capture and relocation at least 30-days prior to the commencement of activities to the CDFW for review and acceptance. At a minimum, the following measures shall be used in the plan:
- 2.18.1 The Qualified Biologist (see condition 2.12) shall be on site and direct all dewatering and relocation activities. Capture and relocation shall be conducted in a manner that minimizes stress and injury to captured animals.
 - 2.18.2 Capture methods may include dip nets. All nets shall be made of a soft braded nylon material that is non-abrasive. Mesh sizing shall be matched to species and the life stages likely encountered. Electrofishing shall be used as a last resort and only when appropriate according to the NMFS Guidelines for Electrofishing (Exhibit A).
 - 2.18.3 A relocation site shall be identified and the most direct transportation route shall be determined prior to project activities.
 - 2.18.4 Capture and handling of aquatic animals shall be minimized. Prior to the installation of the coffer dams, a fine mesh exclusion (block) net shall be placed across the wetted channel immediately upstream of the location of the diversion dam.
 - 2.18.5 Initial dewatering shall be done at a slow rate.
 - 2.18.6 The number of animals captured and moved at any one time shall be limited to the number that can be relocated without stress or injury.
 - 2.18.7 Prior to handling animals, all hands and equipment shall be wetted down with stream water and shall be free of any materials including hand sanitizers, sunscreen or insect repellent. No animals shall be handled with dry hands or dry equipment.
 - 2.18.8 An aeration system shall be used in any live well or other holding facility. The aerator shall be operating prior to placing animals in it to ensure that sufficient oxygen is present during the adjustment period and to minimize the build-up of toxic carbon dioxide in holding waters. The aeration rate and the number of animals in each holding facility shall be managed such that the dissolved oxygen concentration shall

be maintained above 6 parts per million.

- 2.18.9 Water from the local collection site shall be used in live wells or other holding facilities during loading and transport. At no time will chlorinated tap water be used.
 - 2.18.10 Live wells or other holding facilities shall be sufficiently sized to minimize stress.
 - 2.18.11 Dotted smartweed (*Persicaria punctata*) shall not be placed or allowed to enter live wells or holding facilities.
 - 2.18.12 Water temperatures within any live well or other holding facility shall be kept at or below water temperature at the collection site. Temperatures must be managed in such a way as to minimize stress; for example, floating a sealed bag of ice in each container.
 - 2.18.13 Activities shall not be initiated when and if water temperatures exceed or are expected to exceed 68°F.
 - 2.18.14 All captured salmonids shall be tallied by species.
 - 2.18.15 No non-native animals captured shall be returned to the stream or released alive.
 - 2.18.16 Before and after each relocation effort, all equipment shall be sterilized following follow the general gear cleaning protocols in the California Department of Fish and Game *Administrative Report 2005-02: Controlling the Spread of New Zealand Mud Snails on Wading Gear* (Exhibit B). Note: Formula 409 Disinfectant (50% dilution) has recently changed its formula and is no longer recommended. DFG "Tank Disinfection Protocol" shall also be followed (Exhibit C).
- 2.19 Coho Salmon Encounters. If Coho salmon are observed during the fish capture and relocation activities, all project activities shall immediately cease and CDFW shall be immediately notified unless prior arrangements with the CDFW contact have been approved.
- 2.20 Screen Intake: The water diversion intake apparatus shall be screened with a fine mesh screen. The screen shall be cleaned as needed. The following National Marine Fisheries fish screening requirements shall be implemented:
- A self-cleaning screen shall have at least 2.5 square feet of submerged screen material for each cubic foot per second (450 gallons per minute) of the maximum diversion rate. A screen which is not self-cleaning shall have at least 5 square

feet of submerged screen material for each cubic foot per second of the maximum diversion rate. Round openings in the screen shall not exceed 3/32-inch diameter, square openings shall not exceed 3/32-inch measured diagonally, and slotted openings shall not exceed 0.069 inches in width. The screen may be constructed of any rigid woven, perforated, or slotted material that provides water passage while physically excluding fish. Screen material shall provide a minimum of 27% open area, but more open area is better. Stainless steel is recommended to minimize corrosion problems. The screen shall be designed to distribute the flow uniformly over the entire screen area. The screen face generally should be parallel to the flow of the stream. The screen shall be cleaned as frequently as necessary to prevent the approach velocity from exceeding 0.4 feet per second. The screen shall be kept in good repair, and shall be used whenever water is being diverted. The applicant is advised to consult with the National Marine Fisheries Service to ensure that all their design criteria are being met.

- 2.21 Dewater Work Site. Once water has been diverted around the work site (see Condition 2.17) the site shall be dewatered to provide an adequately dry work area. Any muddy or otherwise contaminated water shall be pumped to a settling tank, dewatering filter bag, upland area, or other CDFW-approved location prior to re-entering the creek. Work site dewatering can be accomplished using pumps and or siphons using National Marine Fisheries fish screening requirements. Site dewatering shall be consistent with the capture and relocation guidelines (see Condition 2.20). The work area shall be checked daily for stranded aquatic life. A dewatering plan/implementation plan are not necessary when surface water is not present.
- 2.22 If CDFW determines that turbidity/siltation levels resulting from an activity or activities constitute a threat to aquatic life, all activities associated with the turbidity/siltation shall cease until effective CDFW approved sediment control devices are installed and/or abatement procedures are implemented.
- 2.23 Turbidity and Regional Water Board Basin Plan. Subject to approval of the Regional Water Quality Control Board, all instream activities and any discharges due to project activities shall at all times attain the turbidity requirements listed in Basin Plan for the project area.
- 2.24 Poured concrete shall be excluded from the wetted channel for a period of two weeks after it is poured. During that time the poured concrete shall be kept moist, and runoff shall not be allowed to enter flowing stream. Commercial sealants shall be applied to the poured concrete surface where concrete cannot be excluded from the stream flow for two weeks. If sealant is used, water shall be excluded from the site until the sealant is dry.

- 2.25 Prior to use, all equipment shall be cleaned to remove external oil, grease, dirt, or mud. Wash sites shall be located in upland locations so that dirty wash water does not flow into the stream channel or adjacent wetlands.

Planting and Revegetation

- 2.26 Prohibited Plant Species. Permittee shall not plant, seed, or otherwise introduce invasive plant species. Prohibited exotic plant species include those identified in the California Invasive Plant Council's Inventory Database, which is accessible at: <http://www.cal-ipc.org/ip/inventory/weedlist.php>.
- 2.27 No Excessive Vegetation Removal. The disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. Precautions shall be taken to avoid other damage to vegetation by people or equipment. Permittee shall retain as many trees and brush as feasible, emphasizing shade producing and bank stabilizing trees and brush to minimize impacts to the riparian corridor.
- 2.28 Timing of Planting. Planting and revegetating shall begin when sufficient rainfall has occurred or when an adequate irrigation system is in place to ensure the best chance of survival of the seedlings, but in no case after April 1.
- 2.29 Restore Disturbed Banks. Any disturbed banks shall be fully restored upon completion of construction. Revegetation shall be done using native species. Planting techniques can include seed casting, hydro-seeding, or live planting methods using the techniques in Part XI of the *California Salmonid Stream Habitat Restoration Manual*. Disturbed and compacted areas shall be revegetated with native plant species. The species shall be comprised of a diverse community structure that mimics the native riparian corridor. Planting ratio shall be 2:1 (two plants to every one removed).
- 2.30 Invasive Species Prevention. To ensure that the spread or introduction of invasive exotic plants shall be avoided to the maximum extent possible, equipment shall be cleaned of all dirt, mud, and plant material prior to entering a work site. When possible, invasive exotic plants at the work site shall be removed. Areas disturbed by project activities will be restored and planted with native plants.
- 2.31 Mulching. Mulching and seeding shall be done on all exposed soil which may deliver sediment to a stream. Soils exposed by project operations shall be mulched to prevent sediment runoff and transport. Mulches shall be applied so that not less than 90% of the disturbed areas are covered. All mulches, except hydro-mulch, shall be applied in a layer not less than one (1) inches deep. Where feasible, all mulches shall be kneaded or tracked-in with track marks parallel to the contour, and tackified as necessary to prevent excessive movement. All exposed soils and fills, including the downstream face of the road

prism adjacent to the outlet of culverts, shall be reseeded with a mix of native grasses common to the area, free from seeds of noxious or invasive weed species, and applied at a rate which will ensure establishment.

- 2.32 Non-plastic Material. If erosion control mats are used in re-vegetation, they shall be made of material that decomposes. Erosion control mats made of nylon plastic, or other non-decomposing material shall not be used.
- 2.33 Bar Oil. If riparian vegetation is to be removed with chainsaws, the grantee shall use saws that operate with vegetable-based bar oil when possible.
- 2.34 Revegetation. As indicated in the notification packet, the site shall be re-vegetated in the stated locations with number and species of plants identified.
- 2.35 Vegetation Success. The success and establishment of the trees, shrubs, and grasses that are planted shall be monitored for three years. At the end of three years of monitoring, there shall be at least a 75% survival success rate and relative cover of native species after a complete season without irrigation.
- 2.36 Remedial Planting. If shrubs, trees, and grasses that are planted do not meet established goals, Permittee is responsible for replacement planting, any additional watering, weeding, invasive exotic eradication, or any other practice to achieve these requirements. Replacement plants shall be monitored with the same success goals. Reporting requirements are described in Section 3 below.

Construction Avoidance/Minimization

- 2.37 Erosion control. Erosion control measures shall be utilized throughout all phases of operation where sediment runoff from exposed slopes threatens to enter jurisdictional waters. At no time shall silt laden or contaminated runoff be allowed to enter the stream or directed to where it may enter the stream. Water quality control structures shall be monitored for effectiveness and shall be repaired or replaced as needed.
- 2.38 Clean Up. During all activities at project work sites, all trash that may attract predators shall be properly contained, removed from the work site, and disposed of daily. Following construction, all trash and construction debris shall be removed from work areas.
- 2.39 Equipment Inspections. Any equipment or vehicles driven and/or operated within or adjacent to the stream shall be checked and maintained daily to prevent leaks of materials that could be deleterious to aquatic and terrestrial life or riparian habitat.

- 2.40 Stationary Equipment Leaks. Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to the stream shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak.
- 2.41 Disposal and Removal of Materials. All removed vegetation and debris shall be moved outside the stream or locations that may be subjected to high storm flows. All removed vegetation and debris shall be disposed of according to State and local laws and ordinances.
- 2.42 Location of Spoil Sites. Spoil sites shall not be located within the stream or locations that may be subjected to high storm flows, where spoil may be washed back into the stream, or where it may impact streambed habitat, aquatic, or riparian vegetation.
- 2.43 No Dumping. Permittee and all contractors, subcontractors, and employees shall not dump any litter or construction debris within the stream, or where it may pass into the stream.
- 2.44 Wash Water. Water containing mud, silt, or other pollutants from tool washing or other activities, shall not be allowed to enter a lake or flowing stream or placed in locations that may be subjected to high storm flows.
- 2.45 Debris. Any construction debris shall be prevented from falling into the stream channel. Any material that does fall into a stream during construction shall be immediately removed in a manner that has minimal impact to the streambed and water quality.
- 2.46 Equipment Inspections. Heavy equipment that will be used in these activities will be in good condition and will be inspected for leakage of coolant and petroleum products and repaired, if necessary, before work is started.

HAZARDS AND HAZARDOUS MATERIALS

- 2.47 Toxic Materials. Any hazardous or toxic materials that could be deleterious to aquatic life that could be washed into the stream or its tributaries shall be contained in watertight containers or removed from the project site.
- 2.48 Hazardous Materials. Debris, soil, silt, bark, slash, sawdust, rubbish, creosote-treated wood, raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, wildlife, or riparian habitat resulting from the project related activities shall be prevented from contaminating the soil and/or entering jurisdictional waters.

- 2.49 Spill Cleanup. Permittee shall begin the cleanup of all spills immediately. CDFW shall be notified immediately by the Permittee of any spills and shall be consulted regarding cleanup procedures. The Permittee shall have all spill clean-up equipment on site during construction.
- 2.50 Spill Containment. All activities performed in or near a stream shall have absorbent materials designated for spill containment and clean-up activities on-site for use in an accidental spill. The Permittee shall immediately notify the California Emergency Management Agency at 1-800-852-7550 and immediately initiate the clean-up activities. CDFW shall be notified by the Permittee and consulted regarding clean-up procedures.
- 2.51 Spill Prevention. All equipment operators shall be trained in the procedures to be taken should a spill occur. Prior to the onset of work, the Permittee shall have a Spill Prevention/Response plan to help avoid spills and allow a prompt and effective response should an accidental spill occur. All workers shall be informed of the importance of preventing spills. Operators shall have spill clean-up supplies on site and be knowledgeable in their proper deployment.
- 2.52 Refueling and Maintenance. All fueling and maintenance of vehicles and other equipment and staging areas shall occur at least 65 feet from any riparian habitat or water body and place fuel absorbent mats under pump while fueling.
- 2.53 Spark Arrestors. All internal combustion engines shall be fitted with spark arrestors.
- 2.54 Fire Extinguishers. The permittee shall have an appropriate fire extinguisher(s) and firefighting tools (shovel and axe at a minimum) present at all times when there is a risk of fire.
- 2.55 Parking Areas. Vehicles shall not be parked in tall grass or any other location where heat from the exhaust system could ignite a fire.

3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 Report of Work Completion. The Permittee shall provide a final work completion report to CDFW no later than two weeks after the project is completed. At a minimum, the report shall include: project name, Streambed Alteration Agreement number, status of work, and a discussion of any spills, releases, or unanticipated problems.
- 3.2 Capture and Relocation Results. Permittee shall submit a report of capture and relocation activities to CDFW no more than 30-days after relocation activities have been completed. The report shall include: species encountered, capture

methods; methods used for handling, stress minimization, equipment cleaning and disinfection; sizes of holding facilities; descriptions of relocation sites; number by species of all captured species; and all instances of mortality and injury.

- Stream Name
- Biologist
- Date
- Start time
- End time
- Start water temperature (deg F)
- End water temperature (deg F)
- Start air temperature (deg F)
- End air temperature (deg F)
- Release Location
- Release Latitude
- Release Longitude

- 3.3 Site Review and Reporting. The Permittee shall submit three consecutive post-winter site review reports from a qualified individual. The reports shall occur after the winter seasons once the enhancements have been made. The reports shall include photo documentation of the site, discussion of revegetation success and establishment, and a discussion of the hydrology, geomorphology, and habitat of the restoration reach. Reports are due to CDFW by June 1.
- 3.4 Notification to the California Natural Diversity Database. If any listed, rare, or special status species are detected during project surveys or on or around the project site during project activities, the Permittee shall submit CNDDDB Field Survey Forms to CDFW in the manner described at the CNDDDB website (http://www.dfg.ca.gov/biogeodata/cnddb/submitting_data_to_cnddb.asp) within five working days of the sightings. Copies of such submittals shall also be submitted to the CDFW regional office as specified below.

CONTACT INFORMATION

Any communication that 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 or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

To Permittee:

Napa Count Resource Conservation District
EPIMS-NAP-38992-R3
Attn: Frances Knapczyk

1303 Jefferson Street, Suite 500B
Napa, CA 95559

To CDFW:

California Department of Fish and Wildlife
Bay Delta Region – Region 3
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Attn: Lake and Streambed Alteration Program – Matt Erickson
EPIMS-NAP-38992-R3
Matt.Erickson@Wildlife.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of 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 Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of 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 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 Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to 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 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 Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with, or 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. For example, if the project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

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

Nothing in the Agreement authorizes Permittee or any person acting on behalf of 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.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, 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). Submit the form and fee to the CDFW regional office that serves the area where the project is located.

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 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, 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). Submit the form and fee to the CDFW regional office that serves the area where the project is located.

EXTENSIONS

In accordance with Fish and Game Code section 1605, subdivision (b), 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, 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 Fish and Game Code section 1605, subdivisions (b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code § 1605, subd. (f)). Submit the form and fee to the CDFW regional office that serves the area where the project is located.

EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after Permittee's signature; 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable Fish and Game Code section 711.4 filing fee listed at <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>.

TERM

This Agreement shall expire on December 31, 2027 unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as Fish and Game Code section 1605, subdivision (a)(2) requires.

EXHIBITS

The documents listed below are included as exhibits to the Agreement and incorporated herein by reference.

A. Exhibit A. Project Map

AUTHORITY

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

AUTHORIZATION

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

CONCURRENCE

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

**FOR NAPA COUNTY RESOURCE CONSERVATION
DISTRICT**

Frances Knapczyk
Program Director

Date

**FOR CALIFORNIA DEPARTMENT OF FISH AND
WILDLIFE**

Craig Weightman
Environmental Program Manager

Date

Prepared by: Matt Erickson
Environmental Scientist