



**To:**  
Office of Planning and Research  
For U.S. Mail:  
P.O. Box 3044  
Sacramento, CA 95812-3044

*Street Address:*  
1400 Tenth Street  
Sacramento, CA 95814

**From:**  
Department of Fish and Wildlife  
Northern Region  
619 Second Street  
Eureka, California 95501  
Contact: John Herrera  
Phone: 707-962-9044

Lead Agency (if different from above)  
County of Mendocino  
860 N. Bush Street  
Ukiah, CA 95482  
Contact: Julia Acker  
Phone: 707-234-6650

**SUBJECT: *Filing of Notice of Determination pursuant to Public Resources Code section 21108***

**State Clearinghouse Number:** 2016112028

**Project Title:** Muller Water Diversion, Micro-hydroelectric, and Stream Crossings Project (Lake or Streambed Alteration Agreement No. 1600-2018-0454-R1)

**Project Location:** The project is located within the South Fork Eel River watershed, approximately 8.7 miles east of the town of Piercy, County of Mendocino, State of California; Section 16, T24N, R16W, Mt. Diablo Base and Meridian, in the Noble Butte U.S. Geological Survey 7.5-minute quadrangle; Assessor's Parcel Numbers 011-900-40 at the place of use (POU) & 011-900-41 at the points of diversion (PODs); latitude 39.9247 N and longitude 123.6405 W at the first POD (POD-1).

**Project Description:** This Agreement relies on the Notification materials and a desk review without a CDFW site inspection.

The project involves eight encroachments :1) direct diversion of channel surface water from School House Creek for non-consumptive micro-hydroelectric power generation at Point of Diversion One (POD1) or POD2, 2) direct diversion of channel surface waters from School House Creek for small domestic use at POD2 and 3-8) maintenance and/or replacement of six stream crossings.

#### Micro-hydroelectric Diversion

Water enters the hydroelectric turbines from POD1 by flowing into a gravity-fed, 4-inch pipe and from POD2 by flowing into a 2-inch gravity-fed pipe. The combined diversion rate from POD1 and POD2 for hydroelectricity generation is approximately 140 gallons per minute (gpm). Only one POD is in use at a time with a maximum diversion rate of 120 gpm. The existing season of diversion for hydroelectricity generation is Jan. 1 – Dec 31 of each year, but water can only be diverted if measures 2.73 to 2.77 below can be met. Water exiting the hydroelectric turbines is discharged into the stream channel at a low gradient downstream location. The water discharged from the turbines is dispersed into a mist and does not cause erosion or scour to the stream bed, bank or channel. Water is returned to the stream from POD1 and POD2 at 2,300 and 2,000 feet downstream respectively.

#### Small Domestic Diversion

Water is directly diverted from POD2 into a 1-inch gravity-fed, above-ground pipe to supply four separate residences at a maximum rate of 10 gpm. This diversion of water is made year-round under small domestic use registration and riparian right in the amount of 6.46 acre-feet per year and is not to exceed 4,440 gallons per day as stated on the water right.

#### Stream Crossings (six)

Four proposed encroachments are to upgrade failing and undersized stream crossings. Work for these encroachments will include excavation, removal of the failing crossings, replacement with new properly sized crossings, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion. One proposed encroachment is to modify and stabilize a vertically incised streambank upstream of an existing stream crossing. Work for this encroachment will include excavation, reshaping the stream banks, compaction of material, employing erosion control measures including slash packing exposed banks, and rock armoring as necessary to minimize erosion. The final proposed encroachment is to do maintenance on an existing 40' long metal bridge. Work for this encroachment will include adding 3" minus road rock to

both sides of bridge edges/approaches to prevent undermining of the bridge. A survey by the Designated Biologist may be needed for any of these crossings if surface water is or becomes present during construction.

The Permittee disclosed additional features of interest that are not covered by this Agreement.

The Notification states that Pond 1 is in good condition and meeting current performance standards. Permittee states Pond 2 on APN 011-900-41 is not in use, has no streams entering, and the spillway connects to waters of the State. While Pond 2 does exist on APN 011-900-41, the points of diversion were the only projects evaluated on that parcel. The small domestic use registration for POD-2 lists Pond 1 as a storage location for diverted water. Permittee states that diverted water was priorly stored in the pond, but not currently. Existing pond spillways disclosed in the Notification, but not included as 1602 projects with fees, are not covered under this Agreement. If spillway maintenance (such as armoring) is needed for ponds with outlets connected to waters of the State, replacement of spillways becomes necessary, and/or Pond 1 is determined to be on-stream by the Water Board, that work and the diversion for irrigation must be covered by a major amendment or a separate Notification.

No other projects that may be subject to FGC section 1602 were disclosed. This Agreement does not retroactively permit any constructed reservoirs (including "ponds"), stream crossings, water diversions, modifications to riparian buffers, or other encroachments not described in Table 1.

This is to advise that CDFW, acting as  the Lead Agency /  a Responsible Agency approved the above described project and has made the following determinations regarding the project pursuant to California Code of Regulations section 15096, subdivision (i):

1. The project will not have a significant effect on the environment. This determination is limited to effects within CDFW's permitting jurisdiction as a Responsible Agency.
2. A  mitigated negative declaration /  negative declaration was prepared for this project pursuant to the provisions of CEQA.  
CDFW considered the  mitigated negative declaration /  negative declaration prepared by the Lead Agency for this project pursuant to California Code of Regulations section 15096, subdivision (f).
3. Mitigation measures  were /  were not made a condition of CDFW's approval of the project.
4. A mitigation reporting or monitoring plan  was /  was not adopted by CDFW for this project.
5. A Statement of Overriding Considerations was not adopted by CDFW for this project.
6. Findings were not made by CDFW pursuant to Public Resources Code section 21081, subdivision (a).

The  mitigated negative declaration /  negative declaration prepared for the project is available to the general public at the office location listed above for the Lead Agency. CDFW's record related to the Lake or Streambed Alteration Agreement is available to the public for review at CDFW's regional office.

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Cheri Sanville, Senior Environmental Scientist Supervisor

Date Received for filing at OPR: \_\_\_\_\_