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**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**  
SOUTH COAST REGION  
3883 RUFFIN ROAD  
SAN DIEGO, CA 92123



**STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION NO. 1600-2020-0143-R5  
SANTA CLARA RIVER TRIBUTARY TO THE PACIFIC OCEAN

RANDALL MCINVALE  
UNITED WATER CONSERVATION DISTRICT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and the United Water Conservation District (Permittee) as represented by Randall McInvale.

## **RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified CDFW on July 10, 2020, that 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, 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 Targeted Sediment Removal at the Vern Freeman Diversion (Project) is located at 2641 West Los Angeles Avenue, Saticoy, Ventura County, California. Latitude 34°17'34" N, Longitude 119°06'30" W. USGS 7.5 Minute Quadrangle Map Name Santa Paula, Township 3 North, Range 21 West.

## **PROJECT DESCRIPTION**

The Permittee intends to remove sediment from the channel that runs through the Vern Freeman Diversion (Diversion). The Permittee has stated that the work is needed to maintain functionality of the Diversion. The sediment will be removed by utilizing an excavator-mounted suction pump solely within the concrete lined inlet of the Diversion.

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Approximately 250 cubic yards of accumulated sediments will be removed from the concrete lined approach channel during each removal event. Activities will take place one (1) to two (2) times per week during the work period, resulting in a total of approximately 25 maintenance events. Total sediment removal is estimated to be approximately 8,500 cubic yards. The maintenance footprint is estimated to be an area approximately 3,000 square feet and 65 feet in length. No vegetation will be removed.

The excavator-mounted suction pump will be lowered into the concrete lined channel from above the waterline, no dredging equipment will access the natural streambed, immediately upstream of the Diversion. Construction and biological monitoring personnel will access the channel on foot. Equipment will access the site from disturbed/upland areas on site, which are maintained and cleared as part of United's existing operational area. The pumped sediment and water mixture will be placed in a decanting area on the landward (southeast) side of United's canal system. The decanting area is separated from the Santa Clara River by the Freeman canal system and is situated at a lower elevation than the crest of the adjacent levee. There is no possibility for removed material (sediment or water) to enter the river. Water will drain into United's downgradient canal system, and decanted sands will be collected with equipment and deposited at a location within the Permittee's facility, away from the river channel.

Prior to deploying the suction pump, the work area will be cleared of fish. The Permittee will deploy block nets that span the entirety of the work area within the channel to prevent entrainment of aquatic organisms. Once the block nets have been set, a biologist shall inspect the work area and nets to ensure the work area is devoid of fish. The block nets will only be placed in the channel immediately before, during, and after dredging activities. Setting up the nets typically takes no more than 30 minutes, net removal takes approximately 15 minutes. All personnel responsible for deploying and removing the nets have been trained on net deployment. Each dredging event is anticipated to take between approximately two to four hours. The Project activities are permitted to occur through October 31, 2020, unless otherwise stated herein the Agreement. An extension to this agreement, potentially resulting in additional impacts to aquatic resources, may require additional mitigation, as determined by CDFW.

## **PROJECT IMPACTS**

No vegetation will be removed, no terrestrial habitat will be affected, and no terrestrial wildlife is expected to be affected by the aforementioned activities. The Permittee shall complete U.S. Fish and Wildlife (USFWS) protocol surveys for least Bell's vireo (LBVI), southwestern willow flycatcher (SWFL), and yellow-billed cuckoo (YBCU) in survey areas that encompass the work area, extending several hundred yards upstream and downstream of the Santa Clara River adjacent to the work area. As of July 7, 2020, the closest active LBVI nest to the work area was documented over 1,000 feet downstream. As of July 22, 2020, all known LBVI nests within the vicinity were determined to be inactive. Further, a Designated Biologist(s) will be present during all sediment dredging activities to ensure that Measures are implemented, maintained and effective at all

times. Monitors will have stop work authority should the sediment dredging activities threaten biological resources.

Aquatic resources may be impacted as a result of the Project. As such, the Permittee agrees to provide a financial contribution, in the amount of \$15,000, for the removal of a known fish barrier. The Permittee shall fund the Project within sixty (60) days of the execution of this agreement, see Measure 3.1 for specific information. If any impacts to sensitive species occur as a result of this Project, additional, compensatory mitigation shall be required as determined by CDFW.

Existing fish or wildlife resources the Project could substantially adversely affect based on information received from the Permittee include:

**Reptiles:** western pond turtle (*Emys marmorata*); two-striped gartersnake (*Thamnophis hammondi*); south coast gartersnake (*Thamnophis sirtalis pop. 1*); California legless lizard (*Anniella spp.*); coastal whiptail (*Aspidoscelis tigris stejnegeri*); **Fish:** southern California steelhead (*Oncorhynchus mykiss irideus*); Pacific Lamprey (*Entosphenus tridentatus*); Santa Ana sucker (*Catostomus santaanae*); **Birds:** least Bell's vireo (*Vireo bellii pusillus*); western yellow-billed cuckoo (*Coccyzus americanus occidentalis*); white-tailed kite (*Elanus leucurus*); southwestern willow flycatcher (*Empidonax traillii extimus*); bank swallow (*Riparia riparia*); yellow warbler (*Setophaga petechia*); **Sensitive Natural Communities:** Southern California Steelhead Stream; and all other aquatic and wildlife resources in the area, including the riparian vegetation, which provides habitat for such species in the area.

The adverse effects the Project could have on the fish or wildlife resources identified above include: change in contour of bed, channel, or bank; change in gradient of bed, channel, or bank; change in composition of channel materials; restriction or increase in sediment transport; increased suspended sediment; colonization by exotic plant or animal species; change to, loss, or decline of natural bed substrate; disruption to nesting birds and other wildlife; disruption to fish foraging; fish and/or wildlife net entanglement; disturbance from Project activity; and loss or impediment of aquatic animal species travel routes due to temporary structures (e.g., block nets, suction pumps, and excavator equipment).

## 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) 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 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 Personnel Compliance On Site. If the Permittee or any employees, agents, contractors and/or subcontractors violate any of the terms or conditions of this agreement, all work shall terminate immediately and shall not proceed until CDFW has taken all of its legal actions.

1.6 Pre-Project briefing. A pre-project meeting/briefing shall be held involving all the contractors, subcontractors, and volunteers, concerning the conditions in this Agreement.

1.7 Notification Requirements. CDFW requires that the Permittee:

1.7.1 Immediately notify CDFW in writing if monitoring reveals that any of the protective measures were not implemented during the period indicated in this program, or if it anticipates that measures will not be implemented within the time period specified.

1.7.2 Immediately notify CDFW if any of the protective measures are not providing the level of protection that is appropriate for the impact that is occurring, and recommendations, if any, for alternative protective measures. CDFW shall verify compliance with protective measures to ensure the accuracy of the Permittee's monitoring and reporting efforts.

1.7.3 CDFW may, at its sole discretion, review relevant documents maintained by the Permittee, interview the Permittee's employees and agents, inspect the work site, and take other actions to assess compliance with or effectiveness of protective measures in this Agreement

1.8 Implementation Requirements. The agreed work includes activities associated with the Project Location and Project Description that is provided above. Specific work areas and mitigation measures are described on/in the plans and documents submitted by the Permittee with the Notification Package and shall be implemented as proposed unless directed differently by this Agreement.

1.9 Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information for Designated Biologist three (3) days prior to initiating project activities. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information for all additional Designated Biologist 14 days prior to Project activities occurring after September 1, 2020. The Designated Biologist is an individual experienced with construction level biological monitoring and who is able to recognize species in the Project area and who is familiar with the habits and behavior of those species. The Designated Biologist shall have academic and professional experience in biological sciences and related resource management activities as it pertains to this Project. 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. Permittee shall obtain CDFW's written approval of the Designated Biologist prior to conducting pre-project surveys.

1.10 Designated Biologist Authority. The Designated Biologist shall have authority to immediately stop any activity that is not in compliance with this Agreement, and/or to order any reasonable measure to avoid or minimize impacts to fish and wildlife resources. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred as a result of compliance with this measure. This includes cease-work orders issued by CDFW.

1.11 On-site Education. Permittee shall conduct a streambed orientation class for all persons employed or otherwise working on the Project site (contractors) prior to performing any work on-site. The orientation class shall discuss the importance of **NOT** harming or harassing native wildlife and damaging their habitat (breaking branches of the vegetation) and the different sensitive species that can be found within the Santa Clara River. Permittee shall educate the site personnel regarding restrictions of any markings placed (e.g., sensitive habitats, nesting bird buffer). Permittee shall include a discussion of invasive species and the importance to decontaminate shoes/boots (i.e., remove all visible soil/mud, plant materials, and animal remnants) prior to entering/exiting different waterbodies.

1.12 Post Storm Event Inspection. After any storm event, Permittee shall inspect all sites scheduled to begin or continue construction within the next 72 hours. Corrective action for erosion and sedimentation shall be taken as needed. National Weather Service 72-hour weather forecasts shall be reviewed prior to the start of any phase of the Project that may result in sediment runoff to the stream, and construction plans adjusted to meet this requirement. The National Weather Service forecast can be found at: <http://www.nws.noaa.gov>.

## **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.

## **Aquatic and Terrestrial Species-Specific Protection**

2.1 Permittee Avoidance and Minimization Measures (AMMs). In addition to CDFW's Avoidance and Minimization Measures, the Permittee shall implement all biological mitigation measures, as applicable to the Project, from other resource agencies (e.g., the National Marine Fisheries Services).

2.2 Protected Species. This Agreement does not authorize take, incidental or otherwise, of any protected species. For the purpose of this Agreement, "protected species" means the following: a species fully protected under state law; a candidate species or species listed as threatened or endangered under the California Endangered Species Act (CESA; Fish & G. Code § 2050 *et seq.*) and/or Endangered Species Act (ESA; 16 U.S.C. § 1531 *et seq.*); a species identified by CDFW as a Species of Special Concern (SSC); or any other species for which take is prohibited under state or federal law. No direct or indirect impacts shall occur to any protected species, except as may be authorized by a Natural Community Conservation Plan or one or more individual permits that authorize such impacts.

2.3 Sensitive Species Protection Plan (SSPP). For any special status species observed and/or known to occur within the Project areas and may be impacted by Project activities, the Permittee shall develop a SSPP for the protection of those species. As of July 30, 2020, a draft version of the SSPP was submitted to CDFW for review. Work may not begin until the SSPP has been approved by CDFW.

The SSPP should include but not limited to, measures to identify and address the potential presence of southern California steelhead; Santa Ana sucker; Pacific lamprey; least Bell's vireo; western yellow-billed cuckoo; southwestern willow flycatcher; and bank swallow. The SSPP shall include avoidance and minimization measures and relocation methods for the protection of these species. The SSPP shall also include the following information:

2.3.1 Special Status Reptiles Protection. The Designated Biologist shall conduct a pre-project survey for western pond turtle, California legless lizard, coast horned lizard, south coast gartersnake, and two-striped gartersnake on the Project site. Survey results shall be provided to CDFW prior to initiation of Project activities. Should any special status reptile be found within the Project site, the Permittee shall implement the SSPP plan for these species pursuant to Condition 2.2.

2.3.2 Listed Nesting Birds Protection and Surveys. This Agreement does not authorize take for least Bell's vireo, western yellow-billed cuckoo, southwestern willow flycatcher, bank swallow, and other species protected by CESA. Permittee shall not remove, trim, or damage vegetation in the stream zone in areas containing habitat suitable for nesting of CESA-listed species. Due to the potential presence of breeding habitat within the vicinity of the Project, prior to initiation of Project activities, focused surveys following USFWS protocols for

southwestern willow flycatcher, least Bell's vireo, and western yellow-billed cuckoo shall be conducted during the breeding season. The physical extent of the survey area shall be approved by CDFW and shall include indirectly affected and buffer areas. Survey results shall be submitted in writing to CDFW for review.

2.3.2.1 Survey protocol for southwestern willow flycatcher can be found at: [http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/SW\\_WFlycatcher.2000.protocol.pdf](http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/SW_WFlycatcher.2000.protocol.pdf).

2.3.2.2 Survey protocol for least Bell's vireo can be found at: <http://www.fws.gov/pacific/ecoservices/endangered/recovery/documents/LeastBellsVireoQuals.pdf>

2.3.2.3 Survey protocol for western yellow-billed cuckoo can be found at: [https://www.fws.gov/southwest/es/Documents/R2ES/YBCU\\_SurveyProtocol\\_FINAL\\_DRAFT\\_22Apr2015.pdf](https://www.fws.gov/southwest/es/Documents/R2ES/YBCU_SurveyProtocol_FINAL_DRAFT_22Apr2015.pdf)

2.3.2.4 If any of the aforementioned species are present nesting, foraging, or otherwise repeatedly using the habitat within 300 feet of Project activities, the following avoidance measures shall be implemented;

- No construction shall take place between March 15 through September 15
- If southwestern willow flycatcher, bank swallow, western yellow-billed cuckoo, or least Bell's vireo are present and the avoidance measures identified above cannot be implemented, take may result, and an Incidental Take Permit (ITP) should be applied for and obtained from the CDFW. An ITP may include the following measures for minimization and mitigation: construction buffers, a biological monitor, sound walls, and habitat replacement.

2.4 Take of Nesting Birds. Permittee shall not remove or otherwise disturb vegetation on the project site from February 1 (January 1 for raptors) to September 15, to avoid impacts to breeding/nesting birds.

2.4.1 If breeding activities and/or an active bird nest is located, the breeding habitat/nest site shall be fenced and/or flagged a minimum of 300 feet (500 feet for raptors) in all directions, and this area shall not be disturbed until the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, and the young will no longer be impacted by the project.

2.4.2 Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided

by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird or part thereof except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918 (MBTA; 16 U.S.C. § 703 *et seq.*) before January 1, 2017, and subsequent rules and regulations adopted pursuant to the MBTA that are consistent with the Fish and Game Code. The issuance of this Agreement does not in any way exempt or excuse compliance with these statutes.

2.5 Incidental Take Permit. If the Project, Project construction, or any Project-related activity during the life of the Project will result in “take,” as defined by the Fish and Game Code, of any species protected by CESA [Fish & G. Code, §§ 86, 2080, 2081, subd. (b) (c)], Permittee is advised to obtain appropriate take authorization [e.g., an incidental take permit (ITP)] from CDFW. This Agreement does not authorize take of any rare, threatened or endangered species that may occur within or adjacent to the proposed work area, including least Bell’s vireo; western yellow-billed cuckoo; southwestern willow flycatcher; and bank swallow. If there is a potential for take, the Permittee shall immediately consult CDFW and obtain the necessary state permits and/or submit plans to avoid any impacts to the species. Consultation with U.S. Fish and Wildlife Service or National Ocean and Atmospheric Administration would be required to receive take authority for federal threatened and endangered species.

2.6 Non-listed Special Status Species and other vertebrates. The Designated Biologist shall be present during vegetation removal and initial ground disturbance activities to monitor for non-listed special-status and/or common ground-dwelling vertebrates encountered in the path of Project-related activities. The Designated Biologist shall make every effort to relocate the species out of harm’s way to the extent feasible by doing one of the following: (1) utilize shovel, rake, or similar hand tool to gently re-direct the animal out of work area; (2) install silt fence or other exclusionary fencing to prevent species from re-entering disturbance area; and (3) capture/relocate species to appropriate habitat outside the disturbance area. The Designated Biologist shall have the authority to temporarily stop construction activities until the species is determined to be out of harm’s way. Any exclusionary devices shall be checked by the Designated Biologist or Permittee’s Inspector on a daily basis to check/ensure continued exclusionary device effectiveness. The Permittee shall supply the working calendar for the Designated Biologist to allow CDFW personnel to visit the site while the Designated Biologist is present during construction activities. This shall be provided on a monthly basis. However, the working calendar may be revised during the month to account for variable conditions in the work area. Such changes shall be provided to CDFW at least three business days prior to work.



2.7 Observations of Protected Species and/or Rare Plant Species. If protected species or state-listed rare plant species are observed in the area, Permittee shall immediately notify and consult with CDFW for further actions. Please note that additional state permits may be required prior to commencing Project activities.

2.8 Notification to the California Natural Diversity Database. If any special status species are observed in Project surveys, Permittee or designated representative shall submit California Natural Diversity Data Base (CNDDDB) forms to the CNDDDB for all preconstruction survey data within five (5) working days of the sightings and provide to CDFW's Regional office three (3) copies of the CNDDDB forms and survey maps.

2.9 Check for Wildlife in Pipes/Construction Materials. For construction activities within CDFW jurisdiction, the Permittee shall have the Designated Biologist visually check sections of pipe/construction materials for the presence of wildlife sheltering within them prior to the sections being placed in the trench and attached together, or shall have the ends capped while stored on site so as to prevent wildlife from entering. After attachment of the pipe sections to one another, whether in the trench or not, the exposed end(s) of the pipeline shall be capped at the end of each day during construction to prevent wildlife from entering and being trapped within the pipeline. Exclusionary devices shall be erected to prevent the migration into or the return of species into the work areas if determined appropriate and feasible by the Designated Biologist. Such exclusionary devices shall be checked by Designated Biologist or Permittee's Inspector daily to check/ensure continued exclusionary device effectiveness. The Permittee shall supply the working calendar for the Designated Biologist to allow CDFW personnel to visit the site while the Designated Biologist is present during construction activities.

## **Habitat Protection**

2.10 Demarcate Sensitive Habitat Areas. In consultation with the Designated Biologist, the Permittee shall demarcate the sensitive habitat areas, including nesting birds, to prevent damage to adjacent habitat and to provide visual orientation to its limits. Marking shall be in place during all periods of operation when habitat area is sensitive. All persons employed or otherwise working on the Project site shall be instructed about the restrictions that the marking represents. Permittee shall remove all temporary flagging, fencing, and/or barriers from the Project site and vicinity of the stream upon completion of Project activities.

2.11 Demarcate Work Area Boundary. Prior to the start of Project activity, Permittee shall identify the limits of the required access routes and encroachment into the stream. These "work area" limits shall be identified with brightly colored flagging. Work completed under this Agreement shall be limited to this defined area only. Flagging shall be maintained in good repair for the duration of the Project. All stream areas beyond the identified work area limits shall be considered Environmentally Sensitive Areas and shall not be disturbed.

2.12 Hours of Operation and Lighting. Permittee's construction activities shall take place during daylight hours only to the maximum extent feasible. Any night work conducted shall shield work lighting from any adjacent sensitive habitat.

2.13 Precipitation. Work may continue up to October 31, 2020 if no rain events measuring a tenth of an inch or greater are reported by the National Weather Service Oxnard. If a rain event for a tenth of an inch or greater is forecast within 72 hours, all suction operations must stop and all equipment must be removed from the bed, bank and channel so as not to be swept into the Santa Clara River.

### **Placement of In-stream Structures and Fish Passage**

2.14 Aquatic Species Protection. If flowing or ponded water is within the proposed work limits during Project activities, the Permittee shall have a qualified fisheries biologist continuously survey the proposed work area to verify absence of *O. mykiss*, Santa Ana sucker, Pacific lamprey, and any SSC of concern which may occur within the area. Survey methods shall conform to the current U. S. National Marine Fisheries Service published guidelines and the California Department of Fish and Game published guidelines. If any listed or sensitive species are found, the Permittee shall cease all work within a mile radius of the sighting and in all water (flowing or impounded) and shall contact Baron Barrera, at (858) 354-4114, within 24 hours of the sighting and shall request an onsite inspection by CDFW representative (to be done at the discretion of CDFW) to determine if work shall proceed. Should work proceed, the Permittee shall implement the SSPP plan for this species pursuant to Condition 2.2. The results of the surveys shall be provided to CDFW, along with copies of all field notes, prior to the completion of work or as otherwise specified. The survey techniques shall be approved by the CDFW, in writing, and the personnel conducting the surveys shall have the required State and federal permits if handling the fish is required.

2.14.1 Steelhead – Continuous Monitoring. Permittee shall dedicate one or more qualified fisheries biologists to continuously inspect the nets while deployed to immediately remove any fish that become impinged. If sensitive aquatic species are found impinged, the Permittee shall notify Baron Barrera at (858) 354-4114.

2.14.2 Aquatic Species – Mortality. The Permittee shall report all fish mortality immediately to Baron Barrera at (858) 354-4114

2.14.3 Recovery of Aquatic Wildlife. The Permittee shall have a qualified fisheries biologist survey the proposed work area and netting each time the activity is performed. The survey shall be performed after the nets have been set up, but prior to the use of the suction pump. The purpose of this survey is to recover any remaining aquatic wildlife species left in the work area. The qualified fisheries biologist will use proper relocation methods to relocate species to a pre-determined relocation site prior to work activities. If steelhead are found within the activity area, Baron Barrera shall be notified and consulted prior immediately and prior to the relocation of the specimen(s). Relocation methods

of aquatic species shall be approved by Baron Barrera prior to project initiation.

2.15 Maintain Water Quality. Permittee shall divert flow in a manner that prevents turbidity, siltation, or pollution and provides flows to downstream reaches. Vehicles shall not be driven, or equipment operated in water-covered portions of the stream. If conditions arise, or change, in such a manner as to be considered deleterious to the stream or wildlife, Permittee shall immediately consult CDFW for further actions.

2.16 Unauthorized Materials. Any materials placed in seasonally dry portions of a stream that could be washed downstream or could be deleterious to aquatic life shall be removed prior to inundation by high flows.

2.17 Substrate. Rock, gravel, and/or other materials shall not be imported to, taken from or moved within the bed and or banks of the stream, except as otherwise addressed in the Project description.

2.18 Trenching/Excavation Spoils. Castings or spoil from the trenching/excavation operations shall be placed within uplands or in areas protected from surface flows by water diversion devices.

2.19 Spoils. Spoil (waste material or trash) storage sites shall not be located within a stream, where spoils can be washed back into a stream, or where it will cover aquatic or riparian vegetation.

### **Sedimentation, Turbidity, and Siltation**

2.20 Erosion Control Measures. Permittee shall utilize erosion control measures throughout all phases of operation where sediment runoff from exposed slopes threatens to enter a river, stream, or lake. Furthermore, any type of erosion control shall be weed-free. Permittee shall stabilize all exposed/disturbed areas within the Project site to the greatest extent possible. Permittee or Designated Representative shall monitor erosion control measures during and after each storm event and repair and/or replace ineffective measures immediately. Permittee shall make modifications, repairs and improvements to erosion control measures whenever it is needed. The Permittee or Designated Representative shall monitor instream turbidity levels downstream during Project activities and shall adhere to those specifications for turbidity set forth by the Regional Water Quality Control Board's Conditional Waiver of Waste Discharge Requirements issued for this Project.

2.21 Sediment Control. Permittee shall implement Best Management Practices where sediment from project-related activities placed in upland areas might likely be washed into the stream. Sediment from project-related activities shall not be placed where it is likely to have a negative impact on native trees and vegetation.

2.22 Erosion Control. Any erosion control shall exclude the use of plastic or “hard” netting. If netting is to be used, it must be flexible (e.g., “soft” hemp) so that snakes or other animals do not become trapped in the netting.

2.23 Runoff Control. Preparation shall be made so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.

2.24 Contaminated Site Water. Water containing mud, silt, or other pollutants from equipment washing or other activities, shall not be allowed to enter a flowing stream, dry ephemeral stream or into storm drains. Such water shall be settled, filtered, or otherwise treated prior to discharge back into the water body. Permittee shall place and maintain silt barriers, such as “biologs,” or filter fabric silt fencing, around the drainage inlets until the threat of erosion from surrounding impact areas ceases.

### **Equipment and Access**

2.25 Staging and Vehicle Storage. Staging/storage areas for equipment and materials shall be located outside of the stream in an area selected due to its non-vegetated status. Staging in all other areas subject to CDFW jurisdiction is prohibited by this Agreement unless otherwise approved by CDFW PRIOR to staging activities.

2.26 Operating Equipment and Vehicle Leaks. Any equipment or vehicles driven and/or operated within or adjacent to the drainage shall be checked and maintained daily to prevent leaks of materials that could be deleterious to aquatic and terrestrial life or riparian habitat. No equipment maintenance or fueling shall be done within or near any stream channel or lake margin where petroleum products or other pollutants from the equipment may enter these areas. 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. Clean up equipment such as extra boom, absorbent pads, skimmers, shall be on site prior to the start of project-related activities. No equipment maintenance shall be done within or near any stream channel or lake margin where petroleum products or other pollutants from the equipment may enter these areas under any flow. The repair of equipment that cannot be towed to upland areas is excluded from this condition.

### **Pollution, Litter and Cleanup**

2.27 Pollution Prevention. Any equipment or vehicles driven and/or operated adjacent to the river shall be checked and maintained daily to prevent leaks of materials that could be deleterious to aquatic and terrestrial life or riparian habitat. Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to the river shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak. No equipment maintenance

shall be done within or near any stream channel or lake margin where petroleum products or other pollutants from the equipment may enter these areas under any flow.

2.28 Spill Cleanup. Permittee shall begin the cleanup of all oil/toxic material 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.

2.29 Pollutants and Debris. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, construction waste, cement or concrete or washings thereof, asphalt, paint, oil or other petroleum products or any other substances which could be hazardous to aquatic life, or other organic or earthen material from any logging, construction, or other associated project-related activity shall be allowed to contaminate the soil and/or enter into or placed where it may be washed by rainfall or runoff into, waters of the State. Any of these materials, placed within or where they may enter a stream, by the Permittee or any party working under contract, or with the permission of the Permittee, shall be removed immediately. When project-related activities are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high-water mark of any stream or lake.

2.30 Pollution Compliance. The Permittee shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the Permittee to ensure compliance.

2.31 Hazardous Substances. 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, resulting from project-related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter the stream by Permittee or any party working under contract, or with the permission of Permittee, shall be removed immediately.

2.32 Debris. Except as otherwise permitted in this Agreement, the removal of soil, vegetation, and vegetative debris from the stream bed or stream banks is prohibited. The Permittee shall remove all human generated debris, such as yard and farm cuttings, broken concrete, construction waste, garbage and trash. The Permittee shall remove washed out culverts, and other construction materials, that the Permittee places within, or where they may enter, the stream. Permittee shall pick up all debris and waste daily. Permittee shall dispose of all Project generated debris, materials and rubbish in a legal manner.

Trash Receptacles. The Permittee shall install and use fully covered trash receptacles with secure lids (wildlife proof) that contain all food, food scrapes, food wrappers, beverage and other miscellaneous trash generated by work force personnel.

2.33 Remove Temporary Flagging, Fencing, and Barriers. Permittee shall remove all temporary flagging, fencing, and/or barriers from the Project site and vicinity of the stream upon completion of Project activities.

### **Exotic Species Removal and Control**

2.34 Invasive Plant Control/Eradication. To minimize the spread of invasive plant species to uninfested areas within and outside of the Project site, Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the California Invasive Plant Council's website at: <http://www.cal-ipc.org/ip/prevention/index.php> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <http://www.protectyourwaters.net/>.

2.35 Invasive Species Education Program. Permittee shall conduct an Invasive Species Education Program for all persons working within the Project site prior to the commencement of any Project activities during the pre-construction meeting. Additionally, this instruction shall be included for any new workers starting work after initial commencement of Project activities prior to their performing any work within the Project site. The program shall consist of a presentation from a qualified biologist that includes a discussion of the invasive species currently present within the Project site as well as those that may pose a threat to or have the potential to invade the Project site. The discussion shall include a physical description of each species and information regarding their habitat preferences, local and statewide distribution, modes of dispersal, and impacts. The program shall also include a discussion of BMPs to be implemented at the Project site to avoid the introduction and spread of invasive species into and out of the Project site. The program shall be repeated annually for Projects extending more than one year. Copies of program materials shall be maintained at the Project site for workers to reference as needed and shall be provided to any new workers prior to their performing any work within the Project site. For this requirement an electronic copy of the program materials shall suffice.

2.36 Inspection of Project Equipment. Permittee shall inspect all vehicles, heavy equipment, tools, waders and boots, and other project-related equipment and remove all visible soil/mud, plant materials, and animal remnants prior to entering and exiting the Project site and/or between each use in different waterbodies.

2.37 Notification of Invasive Species. Permittee shall notify CDFW immediately if an invasive species not previously known to occur within the Project site is discovered during Project activities by submitting a completed Suspect Invasive Species Report (available online at: [http://www.dfg.ca.gov/invasives/inv\\_reporting/sightingReport.html](http://www.dfg.ca.gov/invasives/inv_reporting/sightingReport.html)) and photos to the Invasive Species Program by email at: [invasives@wildlife.ca.gov](mailto:invasives@wildlife.ca.gov). Notification may also be provided by calling (866) 440-9530. Upon receiving notification,

CDFW will provide Permittee with guidance for further action as appropriate to the species.

2.38 No Introduction or Translocation of Invasive Plants. Permittee shall not knowingly plant, seed, or otherwise introduce or transfer any plants listed in the California Invasive Plant Council's Invasive Plant Inventory: <http://www.cal-ipc.org/ip/inventory/index.php> in the areas within or adjacent to the Project site. Permittee activities shall not result in an increase in invasive plant material within the primary disposal area or other areas of the site. Monitoring of the disposal area after sediment placement, that is consistent with the SMMP, shall be implemented to demonstrate that no transfer or increase in invasive species has occurred from fill placement activities.

### 3. Mitigation

No sensitive terrestrial habitat(s) and/or species are expected to be adversely affected as a result of this Project. However, aquatic resources may be impacted as a result of this Project. The Project activities are permitted to occur through October 31, 2020, unless otherwise stated herein the Agreement. An extension to this agreement, potentially resulting in additional impacts to aquatic resources, may require additional mitigation, which would be determined CDFW.

3.1 Permittee Responsible Mitigation Requirements. No take is expected to occur as a result of Project activities. However, aquatic resources may be impacted. As such, the Permittee shall provide \$15,000 for the purposes of removing a known fish passage barrier. The exact fish barrier has yet to be determined but must be approved by CDFW within 30 calendar days of the execution of this Agreement. All mitigation requirements shall be submitted to and approved by CDFW within 30 days of the execution of this Agreement. Further, the Permittee shall fund the CDFW approved fish passage barrier removal project, in full, within 60 calendar days from execution of this Agreement. If the Permittee defaults on either requirement detailed in this Measure, Project activities shall cease immediately.

3.2 Mitigation for Unauthorized Impacts. Permittee shall mitigate for impacts beyond those authorized in this Agreement to an amount determined by CDFW. If additional mitigation is required, the type of mitigation shall be determined by CDFW, and may include creation, restoration, enhancement, and/or preservation.

3.3 Prohibited Plant Species. Permittee shall not plant, seed or otherwise introduce invasive exotic plant species. Prohibited exotic plant species include those identified in the California Exotic Pest Plant Council's database, which is accessible at: <http://www.cal-ipc.org/ip/inventory/weedlist.php>.

### 4. Reporting Measures

Permittee shall meet each reporting requirement described below.

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4.1 Notification Prior to Work. The Permittee shall notify CDFW, in writing, at least 24 hours prior to initial activity. Afterwards, the Permittee shall supply the working calendar to CDFW on a monthly basis and at least one week prior to the completion of work. Notification shall be sent to the e-mail address: [R5LSACompliance@wildlife.ca.gov](mailto:R5LSACompliance@wildlife.ca.gov), Reference # 1600-2020-0143-R5.

4.2 Annual Fees. Each year, the Permittee shall determine the number of netting/dredging activities and shall submit to CDFW the associated fee total, based on the fee schedule in place at the time of the payment for the activity (per California Code of Regulations, Title 14), for all the Projects scheduled to be completed. The fees shall be sent to CDFW by June 1 of each calendar year to California Department of Fish and Wildlife, Streambed Alteration Program, South Coast Region 5, 3883 Ruffin Road, San Diego, CA 92123, Reference # 1600-2020-0143-R5.

4.3 Annual Report. The Permittee shall submit an annual monitoring report describing each Project completed per calendar year, including pre- and post-maintenance photos, maps, and reports of compliance to CDFW by June 1 for activities conducted the previous 12 months.

4.4 Communications. All surveys, notifications, monitoring reports and any other required communication between the Permittee and CDFW shall be submitted to [R5LSACompliance@wildlife.ca.gov](mailto:R5LSACompliance@wildlife.ca.gov), Reference # 1600-2020-0143-R5.

4.5 Compliance. CDFW shall verify compliance with protective measures to ensure the accuracy of the Permittee's mitigation, monitoring and reporting efforts. CDFW may, at its sole discretion, review relevant documents maintained by the Permittee, interview the Permittee's employees and agents, inspect the work site, and take other actions to assess compliance with or effectiveness of protective measures in this Agreement.

## **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, fax, or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

### To Permittee:

Randall McInvale  
United Waters Conservation District  
1701 North Lombard Street, Suite 200  
Oxnard, CA 93030

### To CDFW:



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Department of Fish and Wildlife  
South Coast Region  
3883 Ruffin Road

San Diego, California 92123  
Attn: Lake and Streambed Alteration Program  
Notification #1600-2020-0143-R5  
Email: [R5LSACompliance@wildlife.ca.gov](mailto:R5LSACompliance@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 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**

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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 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 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 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 Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

### **AMENDMENT OR SUSPENSION**

CDFW may amend or suspend the Agreement at any time during its term if CDFW determines that an amendment or suspension 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).

### **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).

### **EXTENSIONS**

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In accordance with FGC section 1605(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 FGC 1605(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 (FGC § 1605(f)).

An extension to this agreement, potentially resulting in additional impacts to aquatic resources, may require additional mitigation as determined by CDFW.

### **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 FGC section 711.4 filing fee listed at [http://www.wildlife.ca.gov/habcon/ceqa/ceqa\\_changes.html](http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html).

### **TERM**

This Agreement shall expire on October 31, 2020, 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 FGC section 1605(a)(2) requires.

### **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 FGC section 1602.

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**CONCURRENCE**

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

**FOR UNITED WATERS CONSERVATION DISTRICT**

DocuSigned by:  <small>DA9D727F69FE462</small> Randall McInvale Designated Representative	<hr/> <p>8/7/2020</p> <hr/> <p>Date</p>
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**FOR DEPARTMENT OF FISH AND WILDLIFE**

DocuSigned by:  <small>B0E58CFE24724F5...</small> Erinn Wilson Environmental Program Manger	<hr/> <p>8/7/2020</p> <hr/> <p>Date</p>
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Prepared by: Baron Barrera  
Environmental Scientist