Appendix B

Robles Diversion Fish Passage Facility Permits and Agreements (2003)

State of California - The Resources Agency
GRAY DAVIS, *Governor*

DEPARTMENT OF FISH AND GAME
http://www.dfg.ca.gov
4949 Viewridge Avenue
San Diego, CA 92123
(858) 467-4201

ACT INFO
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July 11, 2003

Flex your POWER

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JUL 14 2003
CASITAS
MUNICIPAL WATER DISTRICT

Mr. John Johnson
Casitas Municipal Water District
1055 Ventura Avenue
Oak View, CA 93022

Dear John Johnson:

We are sending this letter to clarify the Department of Fish and Game's issuance of a Streambed Alteration Agreement for the Robles Diversion Fish Passage Facility. A question arose as to why the Agreement proposes to cover the construction of the project and a stipulated period of operations and maintenance following construction. We believe that it is only prudent to issue separate Streambed Alteration Agreements for construction/initial operation and then for the long-term operations and maintenance thereafter. This is due to the potential for modifications to arise during construction or in the immediate post-construction period which could affect the operation and maintenance. Allowing the facility to be completed and operated for a limited period under our initial agreement gives the project proponent time to identify and fine tune the operations and maintenance procedure without having to be locked into an agreement that is not practicable. We are prepared to issue the initial Agreement for up to 24 months from the completion of construction, and will expedite execution of that document to assist Casitas in moving forward with the bidding process.

As you know, the Department, as a member of the Technical Advisory Group, informally participated in the formal Section 7 consultation between the National Oceanic and Atmospheric Administration (NOAA) Fisheries and the Bureau of Reclamation (BOR) for this project. The Department agrees with, and fully supports, the Biological Opinion issued in March 31, 2003. We believe that the interim water releases that will occur during and for a limited time following the construction phase, as well as the guidance in the operation and maintenance criteria identified in the Biological Opinion will minimize the take of federally endangered steelhead. The Department intends to use the Biological Opinion, and the incidental take permit as the basis for the subsequent Streambed Alteration Agreement that will be issued for the long-term operations and maintenance of the Robles Diversion and Fish Passage Facility, and additional factors would be based on data obtained during the first two years and input from the Robles Diversion and Fish Passage Facility Management Committee.

If you have any further questions or concerns about this issue, please call Ms. Mary Larson, Senior Biologist Specialist, (562) 342-7186.

Sincerely,

C. F. Raysbrook
Regional Manager
South Coast Region

cc: Department of Fish and Game
Mary Larson, Los Alamitos
Martin Potter, Ojai
Betty Courtney, Newhall
CFR-Chron; HCP-Chron

National Oceanic and Atmospheric Administration-Fisheries
Jim Lecky

U.S. Bureau of Recamation
David Young

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STATE OF CALIFORNIA-THE RESOURCES AGENCY GRAY DAVIS, *Governor*

DEPARTMENT OF FISH AND GAME
South Coast Region
4949 Viewridge Avenue
San Diego, California 92123
(858) 467-4201
FAX (858) 467-4235

Flex your POWER

August 04, 2003

Casistas Municipal Water District
Attn: John Johnson
1055 Ventura Avenue
Oak View, CA 93022

Dear Mr. Johnson:

Enclosed is Streambed Alteration Agreement **R5-2002-0055** that authorizes work on the Robles Diversion Dam Fish Screen and Fishway project impacting Ventura River in Ventura County. This action is authorized under Section 1600 of the Fish and Game Code and has been approved by the California Department of Fish and Game. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the Department filed a Notice of Determination (NOD) on the project on 8/4/03. Under CEQA regulations, the project has a 30-day statute of limitations on court challenges of the Department's approval under CEQA.

The Department believes that the project fully meets the requirements of the Fish and Game Code and CEQA. However, if court challenges on the NOD are received during the 30-day period, then an additional review or even modification of the project may be required. If no comments are received during the 30-day period, then any subsequent comments need not be responded to. This information is provided to you so that if you choose to undertake the project prior to the close of the 30-day period, you do so with the knowledge that additional actions may be required based on the results of any court challenges that are filed during that period.

Please contact Martin Potter at (805) 640-3677 if you have any questions regarding the Streambed Alteration Agreement

Sincerely,

for C.F. Raysbrook
Regional Manager

Enclosure
cc: Martin Potter

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AUG 07 2003
CASITAS
MUNICIPAL WATER DISTRICT

CALIFORNIA DEPARTMENT OF FISH AND GAME
4949 Viewridge Avenue
San Diego, CA 92123

June 27, 2003

Notification No. R5-2002-0055.

AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and the Casitas Municipal Water District, State of California, hereinafter called the Operator, is as follows:

WHEREAS, pursuant to Section 1601 of the California Fish and Game Code, the Operator, on the 8th day of February, 2002, notified the Department they intend to divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from the streambed of the following water: Ventura River , Ventura County, California.

WHEREAS, the Department (represented by Martin Potter, Betty Courtney, and Maurice Cardenas) has made an inspection of the subject area on the 15th day of May, 2003, and has determined that such operations may substantially adversely affect existing fish and wildlife resources including: fishes (**steelhead**), amphibians (pacific tree frog, western toad, pacific chorus frog), reptiles (fence lizard, king snake, gopher, and garter snakes), birds (house finch, sparrow, jay, **swallows**, yellowthroat, dove), raptors, mammals (coyote, raccoon, woodrat), native plants (willows, sycamores, coast live oaks) non-native plants (giant cane) and other aquatic and wildlife resources in the area.

THEREFORE, the Department hereby proposes measures to protect fish and wildlife resources during the Operator's work. The Operator hereby agrees to accept the following measures/conditions as part of the proposed work.

If the Operator's work changes from that stated in the notification specified above, this Agreement is no longer valid and a new notification shall be submitted to the Department of Fish and Game. Failure to comply with the provisions of this Agreement and with other pertinent code sections, including but not limited to Fish and Game Code Sections 5650, 5652, 5901, 5931, 5937, and 5948, may result in prosecution.

Nothing in this Agreement authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of responsibility for compliance with applicable federal, state, or local laws or ordinances. A consummated Agreement does not constitute Department of Fish and Game endorsement of the proposed operation, or assure the Department's concurrence with permits required from other agencies.

11/15/04 JJ 7-24-03 MP

This Agreement becomes **effective the date of the Department's signature** and the construction portion **terminates on** ~~**10/15/2004**~~. This Agreement shall remain in effect to satisfy the terms/conditions of this Agreement. Any provisions of the agreement may be amended at any time provided such amendment is agreed to in writing by both parties. Mutually approved amendments become part of the original agreement and are subject to all previously negotiated provisions.

STREAMBED ALTERATION CONDITIONS FOR NOTIFICATION NUMBER: R5-2002-0055

1. The following provisions constitute the limit of activities agreed to and resolved by this Agreement. The signing of this Agreement does not imply that the Operator is precluded from doing other activities at the site. However, activities not specifically agreed to and resolved by this Agreement, shall be subject to separate notification pursuant to Fish and Game Code Sections 1600 et seq.

2. The Operator proposes to alter the streambed to install a structure to allow the passage of fish around the Robles Diversion Facility and Robles Diversion Dam. The primary project features include a fish screen, flow control structure, flow measurement section, fish guidance device, fishway, auxiliary water supply, high and low flow fish exit channels, a baffled apron, and a series of low-head stone weirs allowing for the removal of the existing concrete road crossing downstream of the spillway

The project components are further described as follows:

Fish Screen and Diversion Structure – The fish screen structure will consist of vertical, stainless steel, wedge-wire screen panels aligned horizontally in series in a chevron configuration within the diversion flume. The fish screen assembly, approximately 120 feet long, will be installed to prevent entrainment of adult and juvenile steelhead within the water diverted to Lake Casitas. The fish screen panels will be continuously cleaned using mechanical traveling brush mechanisms. The brush cleaning system will be operated via electric motors, activated manually or automatically, at preset time intervals.

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MP

The fish screen surface area was designed according to the Operator's historic maximum diversion rate of plus **50 cfs for the fishway** and an additional **121 cfs** for the auxiliary water supply pipeline, for a combined total of **671 cfs**. In order to account for inefficiency in the fish screen system (*e.g.,* potentially non-uniform flow, debris, *etc.*), the system was over-designed for a maximum capacity of 726 cfs. Given the proper hydrologic and climatic conditions, The Operator may divert more than 500 cfs, up to either the fish screen limit or the diversion canal limit, whichever is less. The fish screen capacity will be determined during operation of the system. In practice, it is anticipated that The Operator will not divert more than 550 cfs. The design will comply with the criteria of the Department and the National Marine Fisheries Service (NMFS). The approach velocity will not exceed 0.4 feet per second, and the sweeping velocity will be at least two times greater.

Adjustable, perforated plate baffle assemblies will be installed behind the fish screen panels to uniformly distribute approach velocities throughout the screen face. The porosity control devices will be implemented to prevent the occurrence of "hot spots" or areas where the approach velocity exceeds 0.4 feet per second.

The screen will be located between the existing headworks structure and concrete-lined diversion canal. The entire screen assembly will be installed within a new reinforced concrete flume with a width and height of 40.0 and 11.7 feet, respectively. Installation of the fish screen assembly will require excavation of 10,800 cubic yards of material, of which 5,600 cubic yards will be used as backfill and 5,200 cubic yards spoiled at The Operator's existing spoil area.

Approximately 350 lineal feet of the existing concrete-lined diversion canal, including a 74-foot-long Parshall flume, will be removed for construction of the fish screen and diversion structure. Approximately 75 cubic yards of reinforced concrete from demolishing the Parshall flume will be disposed at a facility appropriately licensed to accept the material.

Approximately 950 cubic yards of new reinforced concrete will be placed to construct the new flume.

Flow Control Structure – The flow control structure will consist of a 20-foot wide rectangular flume section containing a single-leaf, overshot gate. The "overshot" gate will be electronically actuated to maintain a design forebay water surface elevation, and to provide the desired rate of diversion. The overshot gate will function as an adjustable weir. The gate will be operated manually or automatically according to a predetermined control logic subroutine.

When the gate is fully raised, the diversion process will be discontinued. Under normal operation, the radial gates at the headworks structure will be fully opened, and diversion control will be provided by the flow control structure.

Under current operation, if The Operator is not diverting water to Lake Casitas, the spillway gates are fully raised. The proposed project requires The Operator to modify its current operation of the spillway gates and to use them to create a forebay pool, during the entire diversion season. In order to avoid trapping steelhead in the forebay pool at the end of the season, the low-flow fish exit channel gate will be raised to release water and fish. The low-flow fish exit will remain open during the summer and fall when The Operator is not diverting water. During brief periods of high runoff, the spillway gates will open as necessary to maintain the designated water surface elevation in the forebay.

Construction of the flow control structure will require excavation of 3,000 cubic yards of material, of which 1,600 cubic yards will be used as backfill and 1,400 cubic yards will be spoiled at The Operator's existing spoil area. Approximately 250 cubic yards of new reinforced concrete will be placed to construct the new flume.

Flow Measurement Structure – A section of the canal downstream of the flow control structure will be equipped with multi-path, ultrasonic velocity and water level measurement transducers. The measured data will be relayed to a central programmable logic controller (PLC) for flow monitoring and flow control/gate actuation purposes. The structure instrumentation will document and record the amount of water diverted from the Ventura River to Lake Casitas.

Fish Guidance Device – The fish guidance device will be located within the diversion flume downstream of the headworks structure. The device will be aligned at approximately 25 degrees to the flume centerline, and will span almost its entire length. The fish guidance device consists of a series of slotted panels constructed of evenly spaced, vertically aligned, profiled louver vanes.

The primary objective of the guidance device is to direct adult upstream migrants toward the entrance of the high-flow exit channel. The project feature will ensure that upstream-migrants do not exit through the existing headworks structure, risk being captured within transverse velocities and swept downstream through the spillway structure. The high-flow exit channel is aligned to relocate the point of exit in the river or forebay approximately 200 feet upstream of the spillway structure where velocities are much less. The downstream end of the fish guidance device will include a covered slot, or fyke, enabling downstream migrants to negotiate past the fish guidance device while preventing upstream migrants from passing through. The fish guidance device will be configured to accommodate the safe passage of downstream migrating adult and juvenile steelhead.

Fishway – The fishway will be a vertical slot type, designed to function at flows of 10 to 50 cfs. It will facilitate upstream passage of adult steelhead around Robles Diversion Dam. The fishway will function for upstream migrating steelhead as well as downstream migrating juvenile and adult steelhead. Flow into the fishway will be self-regulating according to forebay and tailwater surface fluctuation. The entrance into the fishway will be located adjacent to the existing spillway abutment and immediately downstream of the spillway structure.

The fishway design flow is 1,500 cfs. The attraction flows will come from the combination of the fishway (50 cfs) and the auxiliary supply pipeline (121 cfs), as outlined for stormflow supplementation operations criteria in the Biological Opinion. These flows will be maintained during the migration period. The control slide gate will be adjusted automatically according to measured flow in the Ventura River and the pipeline to maintain the proper flow relationship.

The fishway will be approximately 360 feet long and consist of a sloped, rectangular flume partitioned by vertical slot baffles that are located at equal increments, creating a step-like arrangement of resting pools. The flume will be 8.0 feet wide with 16.0-foot high walls. The structure will be constructed of reinforced concrete, and entirely covered with galvanized steel grating for operational access, support and debris fallout protection. The fishway entrance will contain five vertical slots aligned perpendicular, 30 degrees to, and parallel with the streamflow. The slots can be manipulated to generate optimum fish attraction and will be equipped with stoplog channels to allow for closure during periods when the ladder is non-operational. The fishway exit will interface the fish screen via a rectangular channel and full-height vertical slot.

Construction of the fishway will require excavation of approximately 7,000 cubic yards of material, of which 5,000 cubic yards will be used as backfill and 2,000 cubic yards placed at The Operator's existing spoil area. Approximately 700 cubic yards of reinforced concrete will be required for construction of the fishway.

An entrance pool will be located at the fishway entrance to aid migrating fish into the fishway. One thousand cubic yards of material will be excavated to create the pool, all of which will be placed at the above-mentioned facility.

Auxiliary Water Supply Pipeline – The auxiliary water supply pipeline will introduce supplemental flow into the fishway at the entrance pool to enhance fish "attraction." As noted previously, the fish passage design flow is 1,500 cfs. The combination of the fishway (50 cfs) and the auxiliary supply pipeline (121 cfs) will provide the necessary downstream release capacity to meet the stormflow supplementation operations criteria stated in the Biological Opinion. The auxiliary supply flow will be conveyed through an HDPE pipeline and introduced through the sidewall of the initial entrance pool of the fishway. To avoid the capture and entrainment of migrating fish at the pipeline inlet, the auxiliary water will be diverted downstream of the fish screen. Accordingly, the fish screen will be designed to accommodate both The Operator's historic maximum diversion rate of 500 cfs plus the additional auxiliary water supply flow of ~~100~~ 121 cfs.

The auxiliary water supply will consist of an inlet control slide gate, a high-density polyethylene pipeline, a flowmeter, and an outlet diffuser structure. The diffuser will placidly introduce the supplemental flow into the entrance pool to avoid flows that could be injurious or confusing to fish. The inlet will be located downstream of the fish screen to avoid the risk of entrainment, and upstream of the proposed flow control structure to maintain submergence under all diversion conditions. The pipeline will be installed adjacent to the fishway. The 325-

foot HDPE pipeline and concrete diffuser structure will utilize the open trench excavated for the fishway, therefore no additional excavation will be required.

Fish Exit Channels – Two fish exit channels are included in the proposed project. The high-flow exit channel will function as the primary migration route throughout the diversion season. The high-flow exit channel is included, as previously mentioned, to prevent "fall-back" through the spillway structure by relocating the point of exit further upstream where conditions will be more favorable. The high-flow exit channel will operate at a flow rate of 40 cfs to 50 cfs. A low-flow exit channel is also included to circumvent the ambiguity of assigning a specific cut-off point at which the fish passage facilities are to be taken off-line. The purpose of the low-flow exit channel is two-fold. The channel will allow the forebay to self-drain at the end of the diversion season, thereby eliminating the forebay, which creates an attraction nuisance. The low-flow channel will also provide a means for fish passage during lower flows (less than cfs).

The low-flow channel will be opened at the end of the diversion season to drain the forebay. It will remain open until The Operator decides to begin diverting during the following rainy season, allowing any fish and water to bypass the system. Historically, The Operator allows the first few storms to move through the Robles Facility without diverting any water. These storms flush debris out of the system and act to recharge the alluvial groundwater basin. At the beginning of the diversion season, the low-flow fish exit will be closed to allow the forebay to fill in preparation for diversions. Once the forebay is full, the headworks of the diversion structure can be opened to provide a fish exit.

The high-flow exit channel will transition into an exit structure with a 54" slide gate, electric actuator, and steel trash rack, terminating at the Ventura River approximately 200 feet upstream of the spillway structure. The high-flow exit channel, including the exit structure, will be approximately 330 feet long. The high-flow exit channel will consist of a 5-foot wide by 12-foot deep rectangular reinforced concrete flume that interfaces with the fish screen structure just downstream of the guidance device. The low-flow exit channel inlet will be located between the existing headworks and spillway structures and will tie into the diversion flume downstream of the headworks structure. The low-flow exit channel will consist of a 3-foot wide by 17-foot high by 40-foot long concrete channel with a 60-inch slide gate and electric actuator. The channel walls will be constructed to existing grade and covered with galvanized steel grating.

Construction of the fish exit channels will require excavation of 5,000 cubic yards of material, of which 4,000 cubic yards will be used as backfill and 1,000 cubic yards placed at the above-mentioned facility. Approximately 600 cubic yards of reinforced concrete will be required for construction of the fish exit channels.

Streambed Modifications – A baffled apron structure and a series of low-head stone weirs will be included in the project to provide effective fish passage to the fishway entrance while maintaining a stable riverbed. The construction zone for the proposed streambed modifications is immediately downstream of the Robles Diversion spillway. This area is likely considered part of the designated critical habitat for steelhead in the lower Ventura River.

The baffled apron structure will be constructed immediately downstream of the existing spillway apron. The baffled apron will be a reinforced concrete sill with baffle blocks on a sloping concrete slab. The baffle blocks will be distributed over the sloping concrete slab in accordance with the criteria of the U.S. Bureau of Reclamation (USBR) to dissipate energy and limit the extent of turbulent flow in to the entrance pool. The USBR's criteria have been

widely applied for energy dissipation at hydraulic structures. This will function to minimize competing attraction flows from the spillway and obscuring the fishway entrance by flows from the spillway. The sill and baffled apron structure will dissipate excess energy by creating a hydraulic jump within the existing spillway structure throughout the design flow range (0 cfs to 1,500 cfs). The structure will tie into the downstream end of the existing spillway apron with an abrupt invert offset, or sill, and will descend into the entrance pool at the base of the fishway at a 2:1 slope. The apron will be embedded approximately 10 feet into the entrance pool to control the extent of scour.

The channel below the spillway is straight, approximately 40 to 60 feet wide with banks at a 2:1 slope. The streambed and bank substrate consists of large cobble and boulders 1 to 2 feet in diameter. The top of the banks are covered with a relatively young stand of three to five-year-old willows.

Approximately 450 feet downstream from the spillway structure, a concrete low flow measuring weir/roadway is constructed across the spillway channel. The crossing currently functions as a grade stabilization structure, generating a drop of approximately 5 feet in the water surface profile and obstructing steelhead migration at low flows. To correct this, a series of fifteen (15) low-head stone weirs will be installed within the channel at uniformly spaced increments throughout a reach of approximately 800 feet downstream of the existing spillway structure. The series of weirs is designed to produce a step-pool arrangement conducive to upstream fish passage through the spillway channel up to the fishway entrance. In addition, the system will stabilize the streambed, provide the necessary submergence of the fishway entrance, and help maintain a consistent low-flow channel.

The weirs are designed to be approximately 40 feet wide in an arc with the low point in the center, and will be keyed into the embankments a minimum of 4 to 6 feet. Native stone (*i.e.*, cobbles and boulders) will be embedded in a grouted stone footing to a depth of 1/3 of the stone's diameter. Boulders will be anchored to and embedded into the weir footings to prevent undermining the structural support of the weirs, and to prevent erosion of the banks. The center of the low-head stone weirs will be approximately 1 foot lower than the outer edges, thus concentrating the flow towards the center and creating a consistent low flow channel, and reducing the potential for bank scour. Step-pools will exist on the downstream side of each weir. The low-head stone weirs will have a maximum height of 18 inches from the bottom of the downstream pool to the top of the weir. When water is present, this should result in passable conditions for both adult and juvenile fish. The streambed downstream of the weirs will be armored with native material (*i.e.*, cobbles and boulders) to prevent the development of excessively large scour holes.

The existing concrete road crossing will be removed and replaced with grouted rock constructed at the grade of the new riverbed at the location of the existing road crossing. The new road crossing will have the same dimensions as the existing road crossing (12 feet wide), but will be at the new riverbed elevation through the entire width of the channel. The road on either side of the channel will be cut into the bank to eliminate the need for any elevation increase within the channel. The low-flow crossing will be placed immediately upstream of a low-head stone weir (Figure 2). This will ensure that the crossing will not become a fish passage barrier. This crossing will only be usable at flows under 15 cfs, when steelhead are likely to be absent from this reach.

A 30-foot area along the top of both banks will be cleared and graded to provide access for modifying the gradient of the channel and construction of the weirs. This will result in the temporary removal or disturbance of riparian vegetation during construction. The

impacted area is approximately 24,000 square feet or 0.55 acres.

Installation of the low-head stone weirs will impact approximately 1.7 acres of the streambed. Approximately 15,000 cubic yards of material will be excavated, of which 11,000 will be spoil. Approximately 4,000 yards of graded and processed material will be screened from the spoil and will be used to construct the weirs and armor the pool inverts. Approximately 1,000 yards of lean concrete (*i.e.*, concrete with reduced Portland cement content) will be used to anchor the stone weirs into the embankments and streambed.

Maintenance of the stone weirs should be minimal and limited to debris removal, and will occur only during dry conditions when the channel is dewatered. Since the gradation and boulder size is large in relation to conventional design standards, scour of the restoration area should be nominal. Inspections will be conducted early in the service life of the system and on an ongoing basis immediately following significant flood events. The inspections will involve identifying undercutting or flanking around the weirs and repairing, as necessary. Significant movement of the boulders or armoring material will be restored following the guidance of NMFS and USFWS. If removal or disturbance of the riparian vegetation is required, appropriate restoration will be conducted.

The successful passage of fish requires using the physical structures described above. Regardless of flow within the Ventura River, a forebay must be maintained upstream of the existing spillway structure for the fish passage facilities to function properly.

Earthwork for the above-mentioned facilities will involve the use of hydraulic excavators and loaders, bulldozers, and off-road earth-hauling trucks. All construction equipment will be well maintained to ensure that exhaust is minimized. All equipment, while not in use, will be stored at two staging areas, one on each side of the river (Figure 2). The main staging area will be located southwest of the Robles Diversion Dam, between the existing access road and the Robles Diversion Canal on a large flat approximately 1.4 acres in size. An additional staging area, of approximately 0.75 acres in size, will be located east of the spillway channel.

The concrete supply will probably be accomplished with placements ranging from approximately 50 to 150 cubic yards per day. The existing concrete canal lining will be broken, crushed, and placed with the excavation spoil. Approximately 75 cubic yards of reinforced concrete from demolishing the Parshall flume will be disposed at a facility appropriately licensed to accept the material. All excess excavated material for the entire project will be spoiled at The Operator's existing spoil area on the right bank approximately 500 feet upstream from the Robles Diversion Facilities. This spoil basin is located completely outside the high flow channel, and separated from the river channel by a raised berm. The spoil material will be used by The Operator at a later time for construction of road basins and/or slope and embankment maintenance, and will not affect the capacity of the existing spoil area. A qualified archeologist will be present during all necessary excavations to ensure that no cultural resources will be damaged.

Work within or adjacent to the waterway includes the fish exit structure on the right bank approximately 200 feet upstream of the existing spillway structure, excavation for construction of the fish ladder entrance on the right bank just downstream of the spillway structure, incorporation of the baffled apron into the existing spillway structure, and modification of approximately 800 feet of the existing spillway channel via incorporation of low-head stone weirs and the low-flow crossing. Work within the forebay or spillway channel, downstream of the existing spillway structure, will be performed during periods of no flow. This will ensure the absence of steelhead, that water quality is maintained, and erosion minimized.

3. The agreed work includes activities associated with No. 2 above. The project area is located in **Ventura** County (Thomas Guide Page 441, C4). Specific work areas and mitigation measures are described on/in the plans and documents submitted by the Operator and shall be implemented as proposed, unless directed differently by this agreement. Contact Neil Cole at **Phone: (805) 649-2251, ext. 107** for additional information.

4. **COPIES OF THIS** AGREEMENT AND ALL REQUIRED PERMITS AND SUPPORTING DOCUMENTS, **PROVIDED WITH NOTIFICATION OR REQUIRED BY THIS AGREEMENT SHALL BE READILY AVAILABLE AT WORK SITES AT ALL TIMES DURING PERIODS OF ACTIVE WORK.**

5. The Operator shall request an extension of this agreement prior to its termination. Extensions may be granted for up to 12 months from the date of termination of the agreement and are subject to Departmental approval. The extension request and fees shall be submitted to the Department's Region 5 Office at the above address. If the Operator fails to request the extension prior to the agreement's termination, then the Operator shall submit a new notification with fees and required information to the Department. Any activities conducted under an expired agreement are a violation of Fish and Game Code Section 1600 et. seq.

6. The Operator certifies by signing this agreement that the project site has been surveyed and shall not impact any rare, threatened or endangered species; or the Operator certifies that such a survey is not required for the proposed project. If rare, threatened or endangered species occur within the proposed work area, or could be impacted by the work proposed, the Operator shall consult with the Department and obtain any required State and/or Federal permits.

<<WORK AREAS AND VEGETATION REMOVAL>>

7. Disturbance or removal of vegetation shall not exceed the limits approved by the Department. The disturbed portions of any stream channel or lake margin, within the high water mark of the stream or lake, shall be restored to their original condition under the direction of the Department.

8. Restoration shall include the revegetation of stripped or exposed work and/or mitigation areas with vegetation native to the area.

9. The work area shall be flagged to identify its limits within the stream. Vegetation shall not be removed or intentionally damaged beyond these limits.

10. In **areas of temporary disturbance**, where vegetation must be removed, native trees and shrubs, with DBHs of 3 inches or less, shall be cut to ground level with hand operated power tools rather than by grading.

11. Vegetation removed from the stream shall not be stockpiled in the stream bed or on its bank. The sites selected on which to push this material out of the stream should be selected

in compliance with the other provisions of this Agreement. Where possible brush piles shall be left outside the channel in upland areas to provide wildlife habitat.

12. A complete inventory of plants, by species and Diameter at Breast Height (DBH), which will be removed shall be submitted to the Department within 30 days of signing this Agreement.

13. No equipment shall be operated within the dripline of oaks. Protective fencing shall be placed around the dripline of oaks to prevent compaction of the root zone.

14. Any oaks, CA black walnuts and sycamores which are damaged/removed during construction operations shall be replaced in kind at a 10:1 ratio. Willows shall be replaced at a ratio of 5:1.

15. Any oaks which must be **removed** shall be replaced in kind. The replacement ratios* (using rooted plants in liners or direct planting of acorns) for plants which are to be removed shall be as follows: plants less than 5 inches DBH shall be replaced at 3:1; plants from 5 to 12 inches shall be replaced at 5:1; trees from 12 to 24 inches shall be replaced at 10:1; trees from 24 to 36 inches shall be replaced at 15:1; all oaks greater than 36 inches shall be replanted at a ratio of 20:1. **The replacement ratio for damaged trees shall be 2:1 for plants with DBH less than 12 inches. The replacement ratio for damaged trees shall be 5:1 for plants with DBH greater than 12 inches.** (The Department recommends that the Operator using rooted plants in liners, acorns, or one gallon containers for restoration to increase the likelihood of survival of plantings).

<<EQUIPMENT AND ACCESS>>

16. Staging/storage areas for equipment and materials shall be located outside of the stream/lake.

17. Only rubber tired equipment shall be driven within the channel. The equipment shall be clean and free of any weed seeds.

18. If a batch plant is used on-site for the mixing of concrete, a berm or other form of containment dike shall be constructed around the plant to prevent concrete from entering the streambed. The batch plant shall be placed in a location so as not to disturb nesting birds. The Operator shall implement a dust control program at the patch plant. The Department shall approve the location of the batch plant.

19. This work is only authorized when the vehicle is completely clean of petroleum residue and water levels are below the gear boxes of the equipment in use or lubricants and fuels are sealed such that inundation by water shall not result in leaks.

20. Access to the work site shall be via existing roads and access ramps. If no ramps are available in the immediate area, the Operator may construct a ramp in the footprint of the project. Any ramp shall be removed upon completion of the project.

<<FILL AND SPOIL>>

21. Fill length, width, and height dimensions shall not exceed those of the original installation or the original naturally occurring topography, contour, and elevation. Fill shall be limited to the minimal amount necessary to accomplish the agreed activities.

22. The Operator shall only use unconcreted rock rip-rap. for bank stabilization. JJM 7-21-03

23. To facilitate restoration, the Operator shall salvage native topsoil (the top 6 to 12 inch deep layer containing organic material) from the worksite prior to construction. Following construction, salvaged topsoil shall be returned to the work area/placed in the restoration site.

24. The Department recommends the following methods for salvaging, stockpiling, and replacing topsoil: Salvaged topsoil material should be stockpiled in a location where it is unlikely to be disturbed during construction in piles which do not exceed 8 feet in height (3 feet if stored more than one year); The soil should be maintained in a weed-free condition during storage; Following completion of construction, the topsoil should be tested to determine if it is suitable for restoration, and amended if necessary to encourage growth; Graded slopes should be maintained in a weed free state prior to revegetation; Construction areas should be prepared in a manner so as to prevent soil compaction in the upper 1-2 feet; A minimum 4 inch deep layer of topsoil should be distributed in the area to be revegetated; and the area should be rolled with a sheepsfoot roller to bind the soil layers.

25. Spoil storage sites shall not be located within a stream/lake, where spoil can be washed back into a stream/lake, or where it will cover aquatic or riparian vegetation.

<<STRUCTURES>>

26. Rock rip-rap may be placed in areas where other methods of bank protection are not possible. Voids between the rock shall be filled with soil to allow vegetation to grow. Revegetation shall be required within the rip-rap (see the mitigation section).

27. Any temporary dam or other artificial obstruction shall only be built from materials such as clean gravel which will cause little or no siltation, and shall be approved by the Department prior to construction.

<<CLEAN UP>>

28. Structures and associated materials not designed to withstand high water flows shall be moved to areas above high water before such flows occur.

29. Any materials placed in seasonally dry portions of a stream or lake that could be washed downstream or could be deleterious to aquatic life shall be removed from the project site prior to inundation by high flows.

30. Areas of disturbed soils with slopes toward a stream or lake shall be stabilized to reduce erosion potential. Planting, seeding and mulching is conditionally acceptable. Where

suitable vegetation cannot reasonably be expected to become established, non-erodible materials, such as coconut fiber matting, shall be used for such stabilization. Any installation of non-erodible materials not described in the original project description shall be coordinated with the Department. Coordination may include the negotiation of additional Agreement provisions for this activity.

<<POLLUTION, SEDIMENTATION, AND LITTER>>

31. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, construction waste, **cement or concrete or washings thereof**, oil or petroleum products or other organic or earthen material of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into, waters of the State. When operations 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.

32. The Operator 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 operator to insure compliance.

33. Any equipment or vehicles driven and/or operated within or adjacent to the stream/lake shall be checked and maintained daily, to prevent leaks of materials that if introduced to water could be deleterious to aquatic life.

34. Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to the stream/lake shall be positioned over drip pans.

35. 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.

36. The clean-up of all spills shall begin immediately. The Department shall be notified immediately by the Operator of any spills and shall be consulted regarding clean-up procedures.

37. Precautions to minimize turbidity/siltation shall be taken into account during project planning and shall be installed **prior** to construction. This may require that the work site be isolated and that water be diverted around the work area by means of a barrier, temporary culvert, new channel, or other means approved by the Department. Precautions may also include placement of silt fencing, straw bales, sand bags, and/or the construction of silt catchment basins, so that silt or other deleterious materials are not allowed to pass to downstream reaches. The method used to prevent siltation shall be monitored and cleaned/repaired weekly. The placement of any structure or materials in the stream for this purpose, not included in the original project description, or Department approved water pollution/water diversion plan shall be coordinated with the Department. Coordination shall include the negotiation of additional Agreement provisions.

38. When work in a flowing stream is unavoidable, the entire stream flow shall be diverted around the work area by a barrier, temporary culvert, new channel, or other means approved by the Department. Location of the upstream and downstream diversion points shall be approved by the Department. Construction of the barrier and/or the new channel shall normally begin in the downstream area and continue in an upstream direction, and the flow shall be diverted only when construction of the diversion is completed. Channel bank or barrier construction shall be adequate to prevent seepage into or from the work area. **Diversion berms shall be constructed of onsite alluvium of low silt content, inflatable dams, sand bags, or other approved materials.** Channel banks or barriers shall not be made of earth or other substances subject to erosion unless first enclosed by sheet piling, rock rip-rap, or other protective material. The enclosure and the supportive material shall be removed when the work is completed and removal shall normally proceed from downstream in an upstream direction. The Operator shall obtain all written approvals from the Department prior to initiation of construction activities.

39. If stream flows persist down stream of the Robles Diversion in the area of the low flow crossing, the Operator shall first consider potentially delaying the construction activities that require multiple crossing and/or crossings by vehicles hauling wet cement OR the Operator shall develop a diversion plan to minimize potential impacts to downstream resources. The diversion shall be installed upstream approximately 40 feet and downstream approximately 100 feet of the low flow crossing.

40. If stream flow persists at the projected in-channel construction start date, USBR, the Operator, and their contractor will first consider potentially delaying the in-channel work start date. The Operator will discuss this option with NMFS and THE DEPARTMENT to determine if this is an appropriate action to minimize or avoid potential adverse impacts on steelhead. If the contractor cannot avoid performing construction activities while there is water present in the river, the following minimization measures will be taken.

- A temporary diversion structure will be installed upstream of the work site prior to initiation of construction activities in the river channel.
- A coffer dam will be installed using native materials that accumulate in the diversion forebay and will require heavy equipment to construct.
- The isolation area will extend from just upstream of the high-flow fish exit downstream approximately 1,000 feet.
- The Casitas fisheries biologist and the construction contractor will determine the specific site. The height of the coffer dam will be determined by the contractor at the start of the in-channel construction work.
- The size of the area to be dewatered and the location of the coffer dam will depend on the configuration of the sediment in the forebay after the winter rains.
- Water will be passed around the construction zone and re-join the existing river channel downstream of the work site.
- The length and height of the dam and the size of the construction zone will be minimized to the maximum extent practicable while still maintaining functionality.

41. Flow diversions shall be done in a manner that shall prevent pollution and/or siltation and which shall provide flows to downstream reaches. Flows to downstream reaches shall be provided during all times that the natural flow would have supported aquatic life. Said flows shall be sufficient quality and quantity, and of appropriate temperature to support fish and other aquatic life both above and below the diversion. Normal flows shall be restored to the affected stream immediately upon completion of work at that location.

42. Silty/turbid water from dewatering or other activities shall not be discharged into the stream. Such water shall be settled, filtered, or otherwise treated prior to discharge. The Operator's ability to minimize turbidity/siltation shall be the subject of pre-construction planning and feature implementation.

43. Upon Department determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation, shall be halted until effective Department approved control devices are installed, or abatement procedures are initiated.

44. Prior to commencing construction requiring diversion JJ 7-21-03 MP the Operator shall submit to the Department for review and approval, the proposed water diversion/water pollution control plan for this project. The plan shall be consistent with the terms and conditions of this Agreement and the requirements of the U.S. Army Corps of Engineers and Regional Water Quality Control Board. Any terms and conditions in the final Agency approved water diversion/water pollution plan which are more restrictive than in this agreement shall be a part of this Agreement and shall be enforceable by the Department. Any changes in the original project description or Department approved water pollution/water diversion plan shall be coordinated with the Department. Coordination shall include the negotiation of additional Agreement provisions.

45. 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.

46. Water containing mud, silt, or other pollutants from equipment 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.

47. If an off-stream siltation pond/s is/are used to control sediment, pond/s shall be constructed in a location, or shall be designed, such that potential spills into the stream/lake during periods of high water levels/flow are precluded.

48. If silt catchment basin/s is/are used, the basin/s shall be constructed across the stream immediately downstream of the project site. Catchment basins shall be constructed of materials which are free from mud and silt. Upon completion of the project, all basin materials along with the trapped sediments shall be removed from the stream in such a manner that said removal shall not introduce sediment to the stream.

49. Silt settling basins shall be located away from the stream or lake to prevent discolored, silt-bearing water from reaching the stream or lake during any flow regime.

50. Should a silt catchment basin be required, the following operational methods shall be employed:

a. A silt catchment basin or basins (number and location to be determined by the Department) shall be constructed across the stream immediately below the project site. This catchment basin(s) shall be constructed of silt-free gravel or other materials approved by the Department.

b. Upon completion of the project and after all flowing water in the area is clear of turbidity, the gravel along with the trapped sediment shall be removed from the stream.

51. The work area shall be secured from trespass when (as determined by the Department) fish or wildlife resources are vulnerable to damage from unsupervised public access.

<<FISH PASSAGE>>

52. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code section 5937.

53. Pump intakes placed in stream/lake water shall be fitted with (1/8) inch or smaller mesh screens for January 1, through March 30, and (1/4) inch or small mesh screens thereafter.

54. Prior to passing water around the in-channel construction zone, the Casitas fisheries biologist shall make visual observations to determine if there are any fish inhabiting the river channel. If steelhead are observed in the in-channel construction zone, then a fish rescue shall be initiated. The Casitas fisheries biologist shall contact USBR, NMFS and the Department to notify them of the need to initiate a fish rescue. Before any fish rescue activities begin, the reach would be isolated by installing nets across the flowing channel upstream of the coffer dam site and at the downstream end of the construction zone. It is anticipated that fish would initially be captured using seines and/or fyke nets. This effort would be followed by the use of backpack electroshockers to capture any remaining fish. Trapped fish would be released into a perennial portion of the river upstream of the temporary diversion dam or into North Fork Matilija Creek. The release site(s) would be approved by NMFS and Department biologists.

55. The Operator shall report all fish mortality immediately to the Departments Fisheries Biologist, Maurice Cardenas at (805) 640-1852.

<<RESTORATION/MITIGATION>>

56. To provide protection from erosion, the Operator shall plant willow cuttings (obtained from nearby plants) on 6-8 ft centers, on the restored slope. These shall be planted during the willows dormant season, and shall be augered/dug into the groundwater or wetted soil.

57. MITIGATION FOR AREAS OF TEMPORARY DISTURBANCE--No more than 1 acre of habitat within the banks, bed, and channel of the stream and/or riparian habitat shall be temporarily disturbed/impacted due to the proposed operations. Restoration shall include the revegetation of stripped or exposed work areas within the banks, bed, and channel of the stream (including construction areas, access roads, etc.) with native vegetation local to the area at a ratio of 1:1.

58. MITIGATION FOR AREAS OF PERMANENT DISTURBANCE--no more than 1 acre of habitat within the banks, bed, and channel of the stream and/or riparian habitat shall be permanently lost due to the proposed operations. Restoration shall include the restoration of a degraded, stripped, or exposed area(s) with native riparian and transitional vegetation, local to the drainage, at a ratio of 3:1. The location and type of restoration shall be approved by the Department prior to ~~execution of this agreement.~~ permanent disturbance. JJ 7-21-03 MP

59. No restoration/mitigation shall occur in fuel modification zones, future project areas or areas of maintenance.

60. A 30 foot wide buffer of native vegetation shall extend along the mitigation area and all riparian and wetland drainages. The buffer shall serve to minimize the amount of light, noise, and other human generated impacts to the wildlife corridor. Native vegetation shall be used to create wildlife movement corridors between mitigation areas and areas designated as open space or construction/human habitation areas. JJ -7-21-03 MP

61. If native trees have been removed from the stream's banks, they shall be replaced in-kind, and maintained until established, under the direction of a Department representative.

62. In order to determine if the revegetation techniques used have been successful, any plant species required that are listed below shall achieve the minimum growth at the end of three and five years. If the minimum growth is not achieved, then the Operator shall be responsible for taking the appropriate corrective measures as determined by Department representatives. The Operator shall be responsible for any cost incurred during the revegetation or in subsequent corrective measures.

SPECIES	SIZE AT PLANTING (GALLONS)	PLANTING CENTERS	HEIGHT 3 years	5 years
Arroyo Willow	1 gallon	8 ft	10 ft	15 ft
Black Willow	1 gallon	8 ft	12 ft	18 ft
Sandbar Willow	1 gallon	5 ft	4 ft	6 ft
Red Willow	1 gallon	8 ft	9 ft	15 ft
Sycamore	1 gallon	20 ft	5 ft	9 ft
Calif. laurel	1 gallon	20 ft	N/D	N/D
Black Walnut	1 gallon	20 ft	7 ft	12 ft

Cottonwood	1 gallon	*	7 ft	12 ft
White Alder	1 gallon	*	6 ft	11 ft

* = Depending if used as supplemental species (40 ft O.C.) or if dominant species (15 ft O.C.)

OAKS				
Coast live	1 gallon	20 ft	3 ft	6 ft
Canyon live	1 gallon	20 ft	3 ft	6 ft
Scrub	1 gallon	20 ft	2 ft	4 ft
All Shrub species	1 gallon			

63. Planting, maintenance, monitoring and reporting activities shall be overseen by a specialist familiar with restoration of native plants.

64. All plants shall be planted in randomly spaced, naturally clumped patterns. The average planting densities shall meet the criteria specified above.

65. All planting shall have a minimum of 80% survival, by species, the first year and 100% survival thereafter and/or shall attain 75% cover after 3 years and 90% cover after 5 years for the life of the project. If the survival and cover requirements have not been met, the Operator is responsible for replacement planting to achieve these requirements. Replacement plants shall be monitored with the same survival and growth requirements for 5 years after planting.

66. An annual report shall be submitted to the Department by Jan. 1 of each year for 5 years after planting. This report shall include the survival, % cover, and height by species of both trees and shrubs. The number by species of plants replaced, an overview of the revegetation and exotic plant control efforts, and the method used to assess these parameters shall also be included. Photos from designated photo stations shall be included.

67. Prior to initiation of construction activities, a plant palette and planting plan, prepared by a biologist familiar with restoration of native plants, shall be submitted to the Department .

This plan shall include plantings of both overstory and understory vegetation and shall be consistent with the Recommended List of Native Plants for Landscaping in the Santa Monica Mountains as prepared by the California Native Plant Society.

The plan shall also include a description of the proposed numbers, container sizes, and planting location, by species, the proposed monitoring activities* (locations, techniques, scheduling, etc.), maintenance operations with particular emphasis on watering methods and schedules; the removal of invasive plant species, area treated, techniques to be used, and schedule and success criteria for controlling invasive plants; and any/all other references to revegetation and restoration activities specified by this Agreement. All procedures shall be approved by the Department in writing.

* The primary monitoring surveys to determine the success of restoration efforts (survival, cover and growth of plants) shall be conducted in May and September.

68. All planting should be done after the first wetting rains between October 1 and February 1 to take advantage of the winter rainy season, dormancy of foliage, and rooting period to ensure optimum survival of plantings. Should the Operator be required to plant during other times of the year, chances of survival are diminished. To compensate for decreased survival rates, the Operator shall be required to augment the specified planting density by 25% to account for the likelihood of increased mortality of plantings. Any restoration/planting shall be completed by 10/15/05.

69. The Operator shall provide irrigation when natural moisture conditions are inadequate to ensure survival of plants. Irrigation shall be provided for a period of at least two years from planting. Irrigation shall be phased out during the fall/winter of second year unless unusually severe conditions threaten survival of plantings. All plants must survive and grow for at least three years without supplemental water for the restoration phase of the project to be eligible for acceptance by the Department.

70. Coarse mulch shall be placed around plantings to minimize water loss and discourage weed growth. Mulch shall be 3 to 4 inches deep and shall be placed in a minimum area 1.5 times the diameter of the dripline of the plant or 2 feet in diameter, whichever is greater. The mulched area shall be maintained throughout the course of restoration, unless otherwise authorized in writing by the Department. Mulch shall not be placed directly against the main stem of the plants.

71. Plant material for revegetation shall be derived from cuttings, materials salvaged from disturbed areas, and/or seeds obtained from randomly selected native trees and shrubs occurring locally within the same drainage.

72. Any replacement tree/shrub stock, which cannot be grown from cuttings or seeds, shall be obtained from a native plant nursery, be ant free and shall not be inoculated to prevent heart rot. The Operator shall provide a list of all materials which must be obtained from other than onsite sources.

<<REMOVING NON-NATIVE VEGETATION>>

73. The Operator shall remove any non-native vegetation (tree tobacco, castor bean, giant cane, etc.) from the work area and shall dispose of it in a manner and a location which prevents its reestablishment. Removal shall be done at least twice annually during the spring/summer season, as needed, through the term of restoration.

Giant cane (*Arundo*), if present, shall be cut to a height of 6 inches or less, and the stumps painted with an herbicide approved for aquatic use within 5 minutes of cutting. Herbicides shall be applied at least three times during the period from May 1 to October 1 to eradicate these plants. Where proposed methods for removing giant cane

deviate from this procedure, the Operator shall present the alternate methods, in writing, to the Department for review and approval, prior to construction.

74. Whenever possible, invasive species shall be removed by hand or by hand-operated power tools rather than by chemical means. Where control of non-native vegetation is required within the bed bank, or channel of the stream, the use of herbicides is necessary, and there is a possibility that the herbicides could come into contact with water, the Operator shall employ only those herbicides, such as Rodeo (Glyphosate), which are approved for aquatic use. If surfactants are required, they shall be restricted to non-ionic chemicals, such as Agri-Dex, which are approved for aquatic use.

75. No herbicides shall be used on native vegetation unless specifically authorized, in writing, by the Department.

<<PERMITTING AND SAFEGUARDS>>

76. The Operator shall provide a performance bond to cover the full cost of restoration (including any/all planting and seeding, soil testing and amendments, monitoring, maintenance, reporting activities, etc. specified in the subject agreement. This performance bond shall meet the following conditions.

a. The performance bond surety shall be an "admitted" carrier and all transactions shall be governed by the Bond and Undertaking Law (CCP Para.995.010 - 996.510).

b. The performance bond shall stipulate that in the event of a default, the Department/Corps shall be entitled to relief in the form of cash only.

c. Should any legal action be necessary to enforce or interpret the terms of the performance bond, the Department/Corps, as the prevailing party/parties shall be entitled to collect reasonable attorney's fees from the losing party.

d. The performance bond may be subject to partial reduction upon completion and acceptance of certain work by the Department/Corps. 8-1-03 WGT

<<PROTECTION FOR WILDLIFE AND AQUATIC SPECIES>>

77. The Operator shall not allow any vegetation removal within the site from February 1st to August 15th, the recognized breeding, nesting and fledging season for most bird species. If vegetation has to be removed within these dates, a qualified biologist shall conduct bird surveys for nesting birds.

The Department emphasizes migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50C.F.R. §10.13). This Agreement therefore does not allow the Operator, any employees, or agents to destroy or disturb any active bird nest (§3503 Fish and Game Code) or any raptor nest (§3503.5) at any time of the year.

78. Prior to any construction during the raptor nesting season, January 31st to September 1st, a qualified biologist shall conduct a site survey for active nests two weeks prior to an

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scheduled development. If an active nest is located, then no construction work shall be conducted within a 500 foot radius from the nest until the young have fledged and are independent of the adults.

79. Swallows were observed nesting within the existing structure during the Department's site visit. The Operator therefore shall conduct surveys for occupied swallow nests at least until September 15. The Operator shall conduct Swallow surveys beginning July 1, if a nest is vacated; the nest shall be removed and shall not be allowed to be reconstructed. All partial nests shall be removed. Work shall not be conducted within 300 feet of an active nest. Once all nests are vacated and removed from the work area, work may proceed upon confirmation by the Department. Beginning February 1 of each prospective year, the Operator shall monitor for swallow nest construction and remove each nest prior to its completion. If a nest is completed, no work shall be constructed within 300 feet of the nest site until the young have fledged and are no longer dependent on the nest.

80. If least Bell's vireo (LBV), southwestern willow flycatcher, or other threatened or endangered species are found within 500 feet of the work area, the Operator shall contact the Department immediately of the sighting and shall request an onsite inspection by Department representatives (to be done at the discretion of the Department) to determine if work shall begin/proceed. If work is in progress when sightings are made, the Operator shall cease all work within 500 feet of the area in which the sighting(s) occurred and shall contact the Department immediately, to determine if work shall recommence.

81. A biological monitor shall ~~be on site during operations and shall~~ survey for species prior to construction. If any species are found in the path of construction, the monitor shall relocate the species to a safe location. Exclusionary fencing shall be erected to prevent the migration into or the return of species into the work site. and monitor construction operations. MP JJ 7-21-03

82. To provide protection from erosion, the Operator shall plant willow cuttings (obtained from nearby plants) on 3 ft centers, on the slope and in the streambed of the restored area. Plantings and/or cuttings shall be irrigated, when natural moisture is insufficient to sustain growth, for an interval of two years.

<<MAINTENANCE>>

83. The Operator may remove vegetation and debris, including sediment and rocks, which directly interfere with the proper function and operation of existing devices, to include gates, culverts, bridges, weirs, pumps, and stream flow control and measuring stations, or that which must be removed to repair said devices or to replace them in their existing locations. Where vehicles are required to do this work, removal shall not extend more than 150 feet in any direction from said device. Where vehicles are not required, removal shall not extend more than 50 feet in any direction from said device. The stream bed and stream banks are not considered "devices", for purposes of this provision. JH 8-1-03 WCT

84. The Operator may grade and fill existing levee roads as necessary to assure utility. No material of any nature from this activity shall be sidecast onto the stream side of the levee except as provided for in other provisions of this Agreement.

85. The Operator may remove herbaceous vegetation, fallen trees, and branches from existing levee roads and the levee slope furthest from the stream. Minor pruning of trees and brush growing on the stream side slope of the levee, stream bed, and stream banks, is also acceptable, except that such pruning shall be limited to the removal of vegetation that interferes with vehicle access along existing roads. Material in excess of three (3) inches in diameter at breast height (DBH) shall require specific notice to and consultation with the Department.

86. The Operator may remove sand that accumulates behind dams or other flow restrictions. Only those sandy deposits from the sparsely vegetated center of the stream bed and on the banks up to the lower limit of perennial vegetation shall be removed. The width of removal shall extend to the toe of the slope of each bank. All work shall therefore be accomplished without damaging vegetation or altering the stream banks. Existing access roads and ramps shall be used where available. Temporary access ramps may be constructed if necessary. Material in excess of three (3) inches in diameter at breast height (DBH) shall require specific notice to and consultation with the Department.

87. THE Operator shall operate and maintain the project as outlined in the Biological Opinion prepared

87. The Operator within 1 years of completion of construction shall apply and obtain a streambed alteration agreement of the Operations and Maintenance of the Robles Diversion and Fish Ladder by the National Marine Fisheries Service and dated March 31, 2003, for 24 months from the completion of construction. At the end of two years, the Department and the Operator shall <<ADMINISTRATIVE-MISC. >> negotiate a separate streambed alteration agreement (SAA) for operation and maintenance (O&M) of the project. Operations of the project would continue under the Biological Opinion dated March 31, 2003 until the O&M is signed by the Department, SAA

88. All provisions of this Agreement remain in force throughout the term of the Agreement. Any provisions of the Agreement may be amended or the Agreement may be terminated at any time provided such amendment and/or termination is agreed to in writing by both parties. Mutually approved amendments become part of the original Agreement and are subject to all previously negotiated provisions. JJ 7-21-03 MP

89. The Operator shall **provide a copy of this** Agreement, **to all contractors, subcontractors, and the Operator's project supervisors. COPIES OF THIS** AGREEMENT AND ALL REQUIRED PERMITS AND SUPPORTING DOCUMENTS, **SHALL BE READILY AVAILABLE AT WORK SITES AT ALL TIMES DURING PERIODS OF ACTIVE WORK** and must be presented to any Department personnel, or personnel from another agency upon demand. **ALL CONTRACTORS SHALL READ AND BECOME FAMILIAR WITH THE CONTENTS OF THIS AGREEMENT.**

90. A pre-construction meeting/briefing shall be held involving all the contractors and subcontractors, concerning the conditions in this Agreement.

91. The Operator **shall** notify the Department, **in writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities.** Notification shall be sent to the Department at 4949 Viewridge Avenue, San Diego 92123, Attn: ES. FAX Number (858) 467-4299, Reference # R5-2002-0055.

92. The Operator herein grants to Department employees and/or their consultants (accompanied by a Department employee) the right to enter the project site at any time, to ensure compliance with the terms and conditions of this Agreement and/or to determine the impacts of the project on wildlife and aquatic resources and/or their habitats.

93. The Department reserves the right to cancel this Agreement, after giving notice to the Operator, if the Department determines that the Operator has breached any of the terms or conditions of the Agreement.

94. The Department reserves the right to suspend or cancel this Agreement for other reasons, including but not limited to, the following:

a. The Department determines that the information provided by the Operator in support of this Agreement/Notification is incomplete or inaccurate;

b. The Department obtains new information that was not known to it in preparing the terms and conditions of this Agreement;

c. The condition of, or affecting fish and wildlife resources change; and

d. The Department determines that project activities have resulted in a substantial adverse effect on the environment.

95. Before any suspension or cancellation of the Agreement, the Department will notify the operator in writing of the circumstances which the Department believes warrant suspension or cancellation. The Operator will have seven (7) working days from the date of receipt of the notification to respond in writing to the circumstances described in the Department's notification. During the seven (7) day response period, the Operator shall immediately cease any project activities which the Department specified in its notification as resulting in a substantial adverse effect on the environment and which will continue to substantially adversely affect the environment during the response period. The Operator may continue the specified activities if the Department and the Operator agree on a method to adequately mitigate or eliminate the substantial adverse effect.

STREAMBED ALTERATION CONDITIONS FOR NOTIFICATION NUMBER: R5-2002-0155

CONCURRENCE 11/15/04 JJ 7-21-03 MP

This Agreement becomes effective on the Departments signature and the construction portion terminates on ~~10/15/2004~~. This Agreement shall remain in effect until ~~10/15/2005~~ 10/15/2008 to satisfy the mitigation/restoration terms/conditions of this Agreement. 8-1-03 WLT JJ

This agreement was prepared by Martin Potter and Mary Larson.

(Operator's name)

John J Johnson 7-21-03
Name (signature) Date

John J. Johnson
Name (printed)

General Manager
Title

California Department of Fish and Game

for C. F. Raysbrook 8/1/03
C. F. Raysbrook Date
Regional Manager
South Coast Region

R5-2002-0056

STREAMBED ALTERATION CONDITIONS FOR NOTIFICATION NUMBER: R5-2002-0055

CONCURRENCE 11/15/04 JJ 7-21-03 MP

This Agreement becomes effective on the Departments signature and the construction portion terminates on ~~10/15/2004~~. This Agreement shall remain in effect until 10/15/2005 to satisfy the mitigation/maintenance terms/conditions of this Agreement.
This agreement was prepared by Martin Potter and Mary Larson.

(Operator's name)

John J. Johnson 7-21-03

Name (signature) Date

John J. Johnson

Name (printed)

General Manager

Title

California Department of Fish and Game

William S. Tippets 8/4/03

for C. F. Raysbrook Date
Regional Manager
South Coast Region

R5-2002-0055

Winston H. Hickox
Secretary for Environmental Protection

California Regional Water Quality Control Board

Los Angeles Region

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Gray Davis
Governor

John J. Johnson, General Manger
Casitas Municipal Water District
1055 Ventura Avenue
P.O. Box 37
Oak View, CA 93022

CONDITIONAL CERTIFICATION FOR PROPOSED ROBLES DIVERSION FISH PASSAGE PROJECT (CORPS' PROJECT NO. 2003-00260-JWM), VENTURA RIVER, UNINCORPORATED AREA NEAR MEINERS OAKS, VENTURA COUNTY (FILE NO. 00-067)

Dear Mr. Johnson:

Regional Board staff has reviewed your request on behalf of the Casitas Municipal Water District (the Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on June 23, 2003.

I hereby certify that any discharge from the Robles Diversion Fish Passage Project, as proposed and described in Attachment A, if performed in accordance with all applicable water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region* (1994), and in accordance with the conditions specified in Attachment B, will comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act.

The Applicant shall be liable civilly for any violations of this certification in accordance with the California Water Code. This certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this certification action, please contact Valerie Carrillo, Section 401 Program, at (213) 576-6759.

Dennis A. Dickerson
Executive Officer

July 23, 2003
Date

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ATTACHMENT A

Project Information
File No. 00-067

1. Applicant:

John J. Johnson
Casitas Municipal Water District
1055 Ventura Avenue
P.O. Box 37
Oak View, CA 93022
Phone: (805) 649-2251 Fax: (805) 649-3001

2. Applicant's Agent: None

3. Project Name: Robles Diversion Fish Passage Project

4. Project Location: Unincorporated area near Meiners Oaks, County of Ventura

Township: T5N; Range: R23W; SE ¼ of Section 33
Township: T4N; Range: R23W; NE ¼ of Section 4

Latitude: 34° 28' 00", Longitude: 119° 17' 15"

5. Type of Project: Diversion Fish Passage Project

6. Project Description:

Purpose: The purpose of this project is to provide steelhead trout access to suitable spawning and rearing habitat upstream of Robles Diversion Dam.

Description: The Casitas Municipal Water District (Casitas) has proposed to modify the existing Robles Diversion Dam to construct fish passage and screening facilities. This modification will ameliorate a substantial adverse impact on southern California steelhead, which is listed as an endangered species under the Federal Endangered Species Act. The Robles Diversion Dam currently blocks access to over 6 miles of historic spawning and rearing habitat for this species.

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Several new components will be added to the existing facility to accommodate fish passage at this site. Construction of some of these components will require work in the Ventura River and on its banks in the diversion forebay and approximately 800 feet of the channel downstream of the existing dam.

No wetlands exist at the project site; however riparian vegetation located on the banks of the Ventura River within the project site will be disturbed. Mitigation will be provided for in the form of re-vegetating the streambanks where existing riparian vegetation has been destroyed. As part of the design phase of the project, Casitas has already minimized the need for disturbance of existing habitat to the maximum extent practicable.

The project will consist of the following components:

- Installation of a fish screen and diversion structure within Robles Diversion Facilities to avoid entrainment;
- Installation of a flow control structure;
- Installation of a flow measurement structure;
- Installation of a fish guidance device in the diversion canal;
- Construction of a fishway at Robles Diversion Dam;
- Installation of an auxiliary water supply pipeline exit channel;
- Installation of fish exit channel;
- Modification of streambed downstream of spillway to add a baffled apron structure and 15 low-head stone weirs; and
- Installation of fish monitoring facilities.

Construction:
Construction activities will commence in August 2003 and will be completed by December 2004. In-channel work to install the high-flow fish exit, low-flow fish exit, and fishway will occur during the 2003 low-flow season. Construction of the low-head weirs, will occur during the 2004 low-flow season. The bulk of the disturbance would occur during Summer 2004. Revegetation will occur once the in-channel work is completed.

7. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 27 (Permit No. 2003-00260-JWM)

ATTACHMENT A

Project Information
File No. 00-067

8. Other Required Regulatory Approvals:	California Department of Fish and Game Streambed Alteration Agreement National Marine Fisheries Service Section 7 Consultation
9. California Environmental Quality Act (CEQA) Compliance:	The Casitas Municipal Water District of the City of Casitas approved the project's Mitigated Negative Declaration on January 17, 2001.
10. Receiving Water:	Ventura River (Hydrologic Unit No. 402.20)
11. Designated Beneficial Uses:	MUN, IND, PROC, AGR, GWR, FRSH, REC-1, REC-2, WARM, COLD, WILD, RARE, MIGR, SPWN, and WET
12. Impacted Waters of the United States:	Non-wetland waters (vegetated streambed): Fishway – 0.03 permanent and 0.76 temporary acres Downstream (weirs and jump pool) – 0.60 permanent and 2.00 temporary acres Total - 0.63 permanent and 2.76 temporary acres
13. Dredge Volume:	None
14. Related Projects Implemented/to be Implemented by the Applicant:	The Applicant has not identified any related projects carried out in the last 5 years or planned for implementation in the next 5 years.

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File No. 00-067

15. Avoidance/ Minimization Activities:

The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:

- Prior to initiation of construction, the limits of the impact areas shall be delineated by placement of temporary construction fencing or stakes and signage in order to avoid any impacts outside of the project area;

- Siltation and turbidity control measures shall be utilized (e.g., silt fences, hay bales, jute netting, or other appropriate means) in all areas where disturbed soils may potentially wash into waters via rainfall or runoff. Such measures shall remain in place until the project is complete and exposed soils are stabilized; and

- No debris, soil, silt, sand, rubbish, cement or washings thereof, or petroleum products or washings thereof, are allowed to enter into or are placed where it may be washed by rainfall or runoff into the waterway. When project operations are completed, all excess construction materials, debris, or other excess associated project materials, shall be removed to an appropriate off-site location.

16. Proposed Compensatory Mitigation:

The Applicant has proposed the revegetation of the areas disturbed by construction activities associated with the proposed project. The total area proposed for the mitigation, including the upland riparian transition zone is 0.76 acres and 3.52 acres for the Downstream Section. Total mitigation proposed would be 4.28 acres on-site. Also proposed are invasive and exotic vegetation management in order to promote native colonization and coverage area.

ATTACHMENT B

Conditions of Certification
File No. 00-067

STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).

2. This certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' Section 404 Permit and the California Department of Fish and Game's Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the state.**

2. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the state. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the state.

3. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the state.

4. The Applicant shall not conduct any construction activities within waters of the state during a rainfall event. The Applicant shall maintain **a five-day (5-day) clear weather forecast** before conducting any operations within waters of the state.

5. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.

6. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** to this Regional Board. The plan shall include the proposed method and duration of diversion activities, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for pH, temperature, dissolved oxygen, turbidity, and total suspended solids shall be implemented. These constituents shall be monitored on a **daily** basis during the first week of diversion activities, and then on a **weekly** basis, thereafter, until the in-stream work is complete. Results of the analyses shall be submitted to this Regional Board by the **15th** day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

7. The Applicant shall all restore all areas of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the state. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species to the extent feasible. The Applicant shall implement appropriate Best Management Practices to control erosion and runoff from areas associated with this project.

8. The Applicant shall provide COMPENSATORY MITIGATION to offset the proposed temporal loss of **2.76 acres** waters of the United States by creating or restoring riparian habitat at a minimum 1:1 area replacement ratio (3.52 acres). The Applicant shall also provide compensatory mitigation for the proposed permanent impacts to **0.63 acres** of vegetation within waters of the United States by creating or restoring riparian habitat at a minimum 1:1.2 area replacement ratio (0.76 acres).

9. The Applicant shall submit to this Regional Board **Annual Monitoring Reports** documenting the success of all restoration and mitigation efforts, including, percent survival by plant species and percent cover. The reports shall include discussion of any monitoring activities and exotic plant control efforts. Representative photographs from designated stations shall be included in the reports. The reports shall be submitted by **January 1st** of each year for a period of **five (5) years** after planting.

10. All communications regarding this project and submitted to this Regional Board shall identify the Project File Number **00-067**. Submittals shall be sent to the attention of the Nonpoint Source Unit.

11. Any modifications of the proposed project may require submittal of a new Clean Water Act Section 401 Water Quality Certification application and appropriate filing fee.

12. *Enforcement:*

    (a) In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

    (b) In response to a suspected violation of any condition of this certification, the State Water Resources Control Board (SWRCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

    (c) In response to any violation of the conditions of this certification, the SWRCB may add to or modify the conditions of this certification as appropriate to ensure compliance.

13. This certification shall expire **five (5) years** from the date of signature. The Applicant must request a renewal of this certification 180 days prior to its termination, if the project as described has not been completed. Renewals may be subject to additional filing fees, and will require Regional Board approval.

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
VENTURA FIELD OFFICE
2151 ALESSANDRO DRIVE, SUITE 110
VENTURA, CALIFORNIA 93001

REPLY TO
ATTENTION OF:

July 25, 2003

Office of the Chief
Regulatory Branch

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

Casitas Municipal Water District
Attention John J. Johnson
1055 Ventura Avenue
Oak View, California 93022

Dear Mr. Johnson:

This correspondence is in reply to your letter (No. 200300260-JWM) dated February 5, 2002, concerning our permit authority under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344) over your proposal to impact 3.39 acres (2.76 acres temporary, 0.63 acre permanent) of the Ventura River associated with: 1) the demolition of a concrete weir/vehicle crossing approximately 450 linear feet downstream of the existing diversion; 2) the construction of fish passageway facilities and supporting structures, including a fishway, two fish exit channels (low and high-flow), a baffled concrete apron (immediately downstream of diversion spillway), and a series of fourteen low-head stone weirs (800 linear feet, downstream of fishway entrance), near Ojai, Ventura County, California.

The Corps of Engineers has determined that your proposed activity complies with the terms and conditions of nationwide permit NW27 as described in enclosure 1. Furthermore, you must comply with the following non-discretionary Special Conditions:

1. This Corps permit does not authorize you to take an endangered species, in particular the federally endangered Southern California Evolutionarily Significant Unit (ESU) of steelhead. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). The enclosed NMFS BO (file no. 151422SWR02PR6168:FR) contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The NMFS is the appropriate authority to determine compliance with the terms and conditions of its BO and with the ESA.

2. The permittee shall notify the Corps, USFWS and NMFS in writing five business days prior to initiating work in waters of the U.S., and furthermore shall submit the Certificate of Compliance included with this permit verification document to the Corps upon completion of work in waters of the U.S.
3. The permittee shall ensure that all contractors and subcontractors have read and fully understand all terms and conditions of this permit. The permittee shall ensure that a copy of this permit is maintained on-site during the entire construction period.
4. The permittee shall adhere to all the terms and conditions specified in the project's Section 401 Water Quality Certification issued by the Los Angeles Regional Water Quality Control Board on July 24, 2003.
5. Prior to initiation of construction, the limits of each of the project's impact areas shall be delineated by the placement of temporary construction fencing or stakes and signage, sufficient to prevent equipment or personnel from disturbing waters of the U.S. outside of the demarcated project area(s).
6. The permittee shall utilize siltation and turbidity control measures (e.g., silt fences, hay bales, jute netting, or other appropriate means) in all areas where disturbed soils may potentially wash into waters via rainfall or runoff. Such measures shall remain in place until the project is complete and exposed soils are stabilized.
7. The permittee shall ensure no debris, soil, silt, sand, rubbish, cement or washings thereof, or petroleum products or washings thereof, are allowed to enter into or are placed where it may be washed by rainfall or runoff into the waterway. When project operations are completed, all excess construction materials, debris, or other excess associated project materials, shall be removed to an appropriate off-site location outside of any areas subject to Corps jurisdiction.
8. The permittee shall submit a final, Corps'-approved Habitat Mitigation and Monitoring Plan within 30 days of initiating work within waters of the U.S., to be consistent with the (draft) Riparian Revegetation Plan for Proposed Diversion Operations and Fish Passage Facilities at the Robles Diversion, Ventura River, CA, (prepared by Casitas Municipal Water District, July 9, 2003). Following full mitigation implementation, the 3-year and 5-year relative native (planted and naturally-occurring) aerial coverage performance goals shall be 60% and 80%, respectively, for each strata (herbaceous layer, shrub layer, and tree canopy) within the riparian zone (0.79 acre (temp. and perm.) at the high-flow fish conduit and exit site; 2.6 acres (temp. and perm.) at the spillway baffles, fish passage structure, and downstream weirs). The relative aerial coverage eradication goal for all invasive exotics within the riparian zone (e.g., arundo, yellow star thistle, sweet fennel, castor bean, mustard, pampas grass, tamarisk, tree tobacco) shall be 25% and 10% for the 3-year and 5-year milestones, respectively. If native passive plant recruitment has not achieved 40% relative cover by the end of the second year (winter 2006) following full mitigation implementation (winter 2004), a one-time native plant/cutting installation or seeding shall commence prior to the wet season of the third year (winter 2007). No additional augmentation shall occur until the fifth year. Furthermore, if either the majority (>50%) of the plantings/cuttings do not survive their first season, or if native passive recruitment is not on a trajectory to achieve the performance goals, application of periodic artificial irrigation shall be initiated.
9. The permittee shall provide the Corps' with an annual maintenance and monitoring report beginning one year after full mitigation implementation (December 2005), and each year thereafter for a minimum of five years (December 2006, 2007, 2008, 2009). Each report shall be consistent with the Corps' Mitigation Guidelines and

Monitoring Requirements document, dated January 27, 2003. Upon review of the fifth year report, the Corps will assess whether the established native performance and exotic eradication goals have been successfully achieved. If the abovementioned goals are not achieved, the Corps could require the permittee to undertake remedial actions to ensure mitigation success, which could include additional plantings and/or an extended maintenance and monitoring period.

10. If an unforeseen, catastrophic event (e.g., flood, fire, vandalism) removes or kills the majority (>50%) of native species (planted and naturally-occurring) after the vegetation has met the final performance goals, Casitas will not be responsible for replanting damaged areas. If said event(s) precede(s) achievement of the final goals, Casitas will be responsible for replanting the area one time only, and will extend the monitoring period as appropriate following replanting.

This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time. Presently, all nationwide permits are scheduled to expire on March 18, 2007. It is incumbent upon you to remain informed of changes to the nationwide permits. We will issue a public notice announcing the changes when they occur. Furthermore, if you commence or are under contract to commence this activity before the date the nationwide permit is modified or revoked, you will have twelve months from the date of the modification or revocation to complete the activity under the present terms and conditions of the nationwide permit.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact John W. Markham of my staff at (805) 585-2150.

Sincerely,

ORIGINAL SIGNED BY

Bruce A. Henderson
Acting Chief, North Coast Section
Regulatory Branch

Enclosure

BH 7/25/2003
~~CASTANON~~ HENDERSON
CESPL-CO-R

JWM 7/28/03
MARKHAM
CESPL-CO-R

CF: File Copy (Yellow) -200300260-JWM
Clipboard Copy -Los Angeles

LOS ANGELES DISTRICT
U.S ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: 200300260-JWM

Name of Permittee: John Johnson, Casitas Municipal Water District

Date of Issuance: July 25, 2003

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S Army Corps of Engineers
Regulatory Branch
ATTN: CESPL-CO-R-200300260-JWM
2151 Alessandro Drive, Suite 110
Ventura, California 93001

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

_____ _____

Signature of Permittee Date

United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003

In Reply, refer to: PAS # 216.222.281

April 29, 2003

David K. Young, Environmental Specialist
U.S. Bureau of Reclamation
South-Central California Area Office
1243 North Street
Fresno, California 93721-1813

Subject: Robles Diversion Fish Screen and Ladder, Ventura River, Ventura County, California (SCC - 411, ENV - 7.00)

Dear Mr. Young:

We have reviewed your letter dated February 27, 2003, and received in our office on February 28, 2003, requesting our concurrence with your determination that the subject project is not likely to adversely affect the endangered tidewater goby (*Eucyclogobius newberryi*), least Bell's vireo (*Vireo bellii pusillus*), California least tern (*Sterna antillarum browni*), and the threatened western snowy plover (*Charadrius alexandrinus nivosus*) and California red-legged frog (*Rana aurora draytonii*). We understand that you have initiated formal consultation with the National Marine Fisheries Service (NMFS) on the federally endangered steelhead trout (*Oncorhynchus mykiss)* in accordance with section 7 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). Included with your letter was a biological assessment for the subject project prepared for NMFS (Reclamation 2003).

The Robles Diversion Dam is located approximately 1.5 miles downstream from the confluence of Matilija Creek and North Fork Matilija Creek, which join to form the Ventura River approximately 14 miles upstream of the Pacific Ocean. The U.S. Bureau of Reclamation (Reclamation) owns the Robles Diversion Dam and associated facilities, and is proposing modifications to the existing facilities and diversion operations to benefit steelhead trout. Modifications would include the construction and operation of a fish screen and ladder. All construction activities would occur at the Robles Diversion Dam and in a dry channel.

Under the existing operations of the Robles Diversion Dam, water is released at 20 cubic feet per second (cfs). If surface flow can be maintained downstream of the Robles Diversion Dam at Santa Ana Boulevard in Oak View, then downstream releases would be reduced below the

20 cfs level. Flows at the Robles Diversion Dam in excess of 20 cfs are diverted to the Robles-Casitas canal and Lake Casitas. The proposed changes include operation of the proposed fish passage facilities and existing diversion facilities with the following operational components: 1) diversion of water at the Robles Diversion Dam to Lake Casitas via the Robles-Casitas canal; 2) post-storm release of 30 cfs from January through June; 3) release of 0 to 20 cfs from July through December (as described in the Trial Operating Criteria); 4) stormflow suppleme ntation operations (January through June) that will result in forgoing diversions under specific criteria to increase storm-associated passage opportunities to the Robles Diversion Dam; and interim operations which include a 20 cfs release from January through June.

The tidewater goby typically occurs in coastal lagoons, estuaries, and marshes with relatively low salinities (approximately ten parts per thousand), and may range upstream into fresh water up to 1.2 miles from the coast. Tidewater gobies are known to occur in the Ventura River estuary. Proposed diversion operations include increased downstream releases from stormflow supplementation and post-storm operations from January through June. Reclamation anticipates that stormflow supplementation the proposed operations would result in additional flow into the Ventura River estuary during diversion operations compared to existing operations. Diversion operations would occur during or soon after storms in the watershed, so any additions to the flow already entering the estuary during these storm periods would have a negligible effect on tidewater goby habitat. Because all construction activities would occur at the Robles Diversion Dam, and the effects of supplemental flows would be negligible, we concur that the project is not likely to adversely affect the tidewater goby, which is found 14 miles downstream.

The least Bell's vireo typically occupies riparian habitat that contains both canopy and shrub layers, and includes some associated upland habitats. There is no suitable habitat for the least Bell's vireo at the Robles Diversion Dam; however, the species regularly nests approximately 13 miles downstream near the Highway 101 overpass. Additional releases during nesting season (April through July) are not likely to adversely affect the least Bell's vireo. Large storms are unlikely in the Ventura River system during the least Bell's vireo breeding season.

The western snowy plover and California least tern rest or forage on San Buenaventura State Beach which is just south of the Ventura River mouth. Western snowy plovers use the beach for wintering (Smith 2003). California least terns forage in the estuary. San Buenaventura State Beach has been designated as critical habitat for the western snowy plover. Neither species nests at San Buenaventura State Beach. The closest known breeding area for the western snowy plover and California least tern is approximately 4 miles south at McGrath State Beach in Ventura County. Reclamation does not expect stormflow supplementation operations to substantially alter the stormflow conditions within the Ventura River nor would diversion operations erode beach habitat or know nesting areas. We therefore, concur that the proposed project is not likely to adversely affect the western snowy plover or California least tern.

The California red-legged frog has been reported from San Antonio Creek, a tributary to the Ventura River located approximately 7 miles downstream from Matilija Dam. It has also been

observed from above Matilija Dam, approximately 2 miles upstream. Reclamation does not anticipate that the additional releases would have any effect on the California red-legged frog either downstream or upstream of the Robles Diversion. This species is dependent on pools of water. The small amount of additional flow, relative to overall stormflow conditions, may have positive, although temporary, effects on the habitat for the California red-legged frog downstream of the Robles Diversion. We concur that the proposed project is not likely to adversely affect the California red-legged frog.

Further consultation pursuant to the Act, is not required. If the proposed action changes in any manner or if adverse effects to any listed species are detected at any time during the project implementation, you should contact us immediately to complete the appropriate level of consultation.

If you have further questions regarding this matter, please contact Chris Delfith of my staff at (805) 644-1766.

Sincerely,

Rachel E. Tamm
acting for
Bridget Fahey
Division Chief
Santa Barbara/Ventura/Los Angeles

cc: Maurice Cardenas, California Department of Fish and Game
Rick Rogers, National Oceanic and Atmospheric Administration Fisheries

Literature Cited

Smith, R. 2003. Ventura county snowy plovers - 2002 survey results. Unpublished report prepared for Point Reyes Bird Observatory and the Channel Coast District of the California Department of Parks and Recreation.

U.S Bureau of Reclamation. 2003. Revised Biological assessment for diversion operations and fish passage facilities at the Robles diversion. Unpublished report prepared for National Marine Fisheries Service. Long Beach, California.