

Notice of Determination

TO: Office of Planning and Research **FROM:** Department of Fish and Wildlife
Northern Region
601 Locust Street
Redding, CA 96001
Contact: Kim Backes
kim.backes@wildlife.ca.gov

For U.S. Mail:
P.O. Box 3044
Sacramento, CA 95812-3044

Street Address:
1400 Tenth Street
Sacramento, CA 95814

LEAD AGENCY (if different from above):
California Forestry and Fire Protection
6105 Airport Road
Redding, CA 96003
Contact: Jon Woessner
Phone: (530) 224-2438

SUBJECT: Filing of Notice of Determination pursuant to § 21108 of the Public Resources Code

Project Title: Streambed Alteration Agreement EPIMS No. 37705 for 2-22-00176-TRI Short Stack.

Project Location: The project area is approximately 2 miles east of Douglas, CA, City in Trinity County in Tom Lang Gulch and Vitzthum Gulch, tributaries to the Trinity River and Short Gulch tributary to Tom Lang Gulch in the Tom Lang Gulch Planning Watershed (1106.310403), in the County of Trinity, State of California; Township 32N, Range 09W, Sections 2, 3, and 11, Mount Diablo Base and Meridian; USGS 7.5 minute quadrangles, Weaverville and Lewiston.

Project Description: The project is described in Short Stack THP 2-22-00176-TRI and is limited to 3 encroachments including the 2 existing water drafting sites and 1 temporary culvert. Waterhole A and Waterhole B from an existing water drafting site and an existing off-channel waterhole on Class II watercourses, as described on pages 54 and 55 and shown on map pages 226 and 229 of the Timber Harvest Plan (THP). Map Point 1 is the installation of a temporary modified spitter, using a 24-inch cnp, as described on page 40 and shown on map pages 76 and 77 of the Timber Harvest Plan (THP).

This is to advise that the Department of Fish and Wildlife (CDFW), acting as the lead agency / a **responsible agency** approved the above-described project on the date signed below and has made the following determinations regarding the above described project:

1. The project will / **will not** have a significant effect on the environment. (This determination is limited to effects within CDFW's jurisdiction when CDFW acts as a responsible agency.)
 2. **An environmental impact report** / **A negative declaration** / **A timber harvesting plan** was prepared for this project pursuant to CEQA.
 3. Mitigation measures **were** / **were not** made a condition of DFW's approval of the project.
 4. A Statement of Overriding Considerations **was** / **was not** adopted by DFW for this project.
 5. Findings **were** / **were not** made by CDFW pursuant to Public Resources Code § 21081(a). The Department did, however, adopt findings to document its compliance with CEQA.
 6. Compliance with the environmental filing fee requirement at Fish and Game Code § 711.4 (check one):
 - Payment is submitted with this notice.
 - A copy of a receipt showing prior payment is on file with CDFW.
 - A copy of the CEQA Filing Fee No Effect Determination Form signed by CDFW is attached to this notice.
- Lead Agency certification: CDFW, as Lead Agency, has made the final EIR with comments and responses and record of project approval, or the Negative Declaration, available to the General Public at the CDFW office identified above.
- Responsible Agency statement: The final EIR, Negative Declaration, or THP that was prepared by the Lead Agency for this project is available to the General Public at the office location listed above for the Lead Agency. CDFW's CEQA Findings are available at the CDFW office identified above.

Signed: _____

Rich Klug
Senior Environmental Scientist
Northern Region

Date: 02/22/2023

Date Received for filing at OPR:

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS FOR
STREAMBED ALTERATION AGREEMENT EPIMS No. 37705 Short Stack THP**

Introduction

The California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, *et seq.*) and the State CEQA Guidelines (Guidelines) (Section 15000, *et seq.*, Title 14, California Code of Regulations) require that no public agency shall approve or carry out a project for which a Timber Harvest Plan (THP) has been completed that identifies one or more significant effects, unless the agency makes the following finding as to each significant effect:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

The THP is a certified state regulatory program that provides a substitute document to a Negative Declaration or Environmental Impact Report, pursuant to Guidelines Sections 15251 and 15252. As the lead agency for the THP, the California Department of Forestry and Fire Protection (CALFIRE) certified the THP for the Project on January 25, 2023. The Department of Fish and Wildlife (CDFW) found that the Project will not result in significant environmental effects with the mitigation measures required in, or incorporated into the Project.

CDFW is entering into a Streambed Alteration Agreement (Agreement) **No. 37705** with **Mr. Steven Emershy**. The project is located at Tom Lang Gulch and Vitzthum Gulch, tributaries to the Trinity River and Short Gulch tributary to Tom Lang Gulch in the Tom Lang Gulch Planning Watershed (1106.310403), in the County of Trinity, State of California; Township 32N, Range 09W, Sections 2, 3, and 11; Mount Diablo Base and Meridian; USGS 7.5 minute quadrangles, Weaverville and Lewiston.

Because CDFW is issuing the Agreement, it is a Responsible Agency under CEQA for the Project. As a CEQA Responsible Agency, CDFW is required by Guidelines Section 15096 to review the environmental document certified by the Lead Agency approving the projects or activities addressed in the Agreement and to make certain findings concerning a project's potential to cause significant, adverse environmental effects. However, when considering alternatives and mitigation measures approved by the Lead Agency, a Responsible Agency is more limited than the Lead Agency. When issuing the Agreement, CDFW is responsible only for ensuring that the direct or indirect environmental effects of activities addressed in the Agreement are adequately mitigated or avoided. Consequently, the findings adopted or independently made by CDFW with respect to an Agreement's activities are more limited than the findings of the Lead Agency funding, approving, or carrying out the project activities addressed in such Agreements.

Findings

CDFW has considered the THP adopted by CALFIRE. CDFW has independently concluded that the Agreement should be issued under the terms and conditions specified therein. In this regard, CDFW hereby adopts the findings of CALFIRE, as set forth in the THP insofar as they pertain to the Project's impacts on biological resources.

Signed: _____

Rich Klug
Senior Environmental Scientist
Northern Region

Date: 02/22/2023

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
NORTHERN REGION
601 LOCUST STREET
REDDING, CA, 96001



STREAMBED ALTERATION AGREEMENT

NOTIFICATION NO. EPIMS-TBD

Tom Lang Gulch and Vitzthum Gulch, tributaries to the Trinity River and
Short Gulch tributary to Tom Lang Gulch
3 Encroachments

STEVEN EMERSHY
SHORT STACK THP

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

RECITALS

WHEREAS, pursuant to Fish and Game Code section 1602, Permittee notified CDFW on 11/07/2022 that Permittee intends to complete the project described herein.

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

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

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

PROJECT LOCATION

The project is located approximately 2 miles east of Douglas City in Trinity County in Tom Lang Gulch and Vitzthum Gulch, tributaries to the Trinity River and Short Gulch tributary to Tom Lang Gulch in the Tom Lang Gulch Planning Watershed (1106.310403), in the County of Trinity, State of California; Township 32N, Range 09W, Sections 2, 3, and 11; Mount Diablo Base and Meridian; USGS 7.5 minute quadrangles, Weaverville and Lewiston.

PROJECT DESCRIPTION

The project is limited to 3 encroachments including the 2 existing water drafting sites and 1 temporary culvert. Waterhole A and Waterhole B from an existing water drafting site and an existing off-channel waterhole on Class II watercourses, as described on pages 54 and 55 and shown on map pages 226 and 229 of the Timber Harvest Plan (THP). Map Point 1 is the installation of a temporary modified spitler, using a 24-inch cmp, as described on page 40 and shown on map pages 76 and 77 of the Timber Harvest Plan (THP), refer to Short Stack THP 2-22-00176-TRI.

- **Map Point 1** (Class II): Install a temporary modified spitler, using a 24-inch cmp or smaller sized cmp that is sufficient to handle flow. Potential sediment discharge is 1-3 cubic yards. Remove crossing prior to the winter period.
- **Drafting Site Waterhole A** (Class II Watercourse): An existing water drafting site at an existing metal plate crossing. Remove sediment from the waterhole prior to drafting operations and place a 1" temporary pipe upstream of the site, placing the pipe below the metal plate continuing downstream to ensure continuous surface flow.
- **Drafting Site Waterhole B** (Class II spring): An existing off channel waterhole fed by an uphill spring(s).

PROJECT IMPACTS

CDFW has determined that without implementation of the conditions contained within this Agreement, existing fish or wildlife resources the project could substantially adversely affect include: coho salmon-southern Oregon/northern California ESU (*Oncorhynchus kisutch*), chinook salmon-upper Klamath and Trinity Rivers ESU (*Oncorhynchus tshawytscha*) aquatic species, SSC species or habitat observed on site, CNDDDB occurrences, etc., (Fish and Game Code 45), and other species dependent on aquatic and riparian habitats such as reptiles, mammals, birds, and non-aquatic invertebrates.

The adverse effects the project could have on the fish or wildlife resources identified above include: short-term release of contaminants incidental from work activities (e.g., sediment, petroleum products, etc.), channel dewatering, and loss or decline of stream channel and riparian habitats. These effects may cause conditions that decrease instream quality, damage spawning and/or rearing habitats, impede the up and/or downstream migration of aquatic species, reduce the quality or quantity of aquatic and riparian breeding and foraging habitats, and disrupt the nesting and denning of terrestrial birds and other wildlife.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that CDFW personnel may enter the project site upon 24-hour notification to verify compliance with the Agreement.
- 1.5 Notification of Commencement and Completion of Work. At least two business days prior to the initiation of work at each facility listed in the Project Description, the Permittee shall contact CDFW representative Kim Backes by email (kim.backes@wildlife.ca.gov) to facilitate monitoring. Information to be disclosed shall include Agreement number, Timber Harvesting Plan (THP) number, and the anticipated start date. CDFW has two full business days from time of Permittee contact to respond. If the Permittee does not receive a response from CDFW at two business days, as initiated by Permittee's time of contact, the Permittee may initiate the work permitted by this Agreement. The Permittee shall contact CDFW within thirty days of completion of the work.
- 1.6 Project Accordance. Except where otherwise stipulated in this Agreement, all work shall be in accordance with the project description submitted with Notification EPIMS 37705 and THP 2-22-00176-TRI "Short Stack" as approved on 01/25/2023.

2. Avoidance and Minimization Measures

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

PROJECT TIMING

2.1 Timing for Work on Class II Watercourses. All work on the stream banks or within the stream channel shall be confined to periods of low or no water flow between **May 1st and October 15** for Class II watercourses. Temporary crossings or structures installed during these times shall be removed prior to October 15, or within one week after the need for the crossing has ceased. Exceptions to project timing are as follows: ***work may be conducted in or near the stream outside of the aforementioned work periods, provided adherence to all conditions in this Agreement and a) – g) below.***

- a) The Permittee shall obtain written approval (e.g., email) from CDFW prior to the commencement of work activities.
- b) The Permittee shall complete any unfinished encroachment work, including erosion control measures, within 24 hours of CDFW directing the Permittee to do so.
- c) Prior to any ground disturbing work at a project site, the Permittee shall stock-pile erosion control materials and have available to administer. All bare mineral soil exposed in conjunction with crossing construction, deconstruction, maintenance or repair, or removal shall be treated for erosion immediately upon completion of work on the crossing, and prior to the onset of precipitation capable of generating runoff. Erosion control shall consist of at least 1 to 2 inches weed-free straw mulch with greater than 90% coverage. In addition to mulching, seeds may be applied. If used, seeds shall be native or regionally appropriate plants, sterile varieties, or short lived non-native annuals that are known not to persist or spread such as cereal cover crops [i.e., barley (*Hordeum vulgare*), buckwheat (*Fagopyron esculentum*), oats (*Avena sativa*), rye (*Secale cereale*), wheat (*Triticum aestivum*)] to avoid the propagation of non-native (invasive) plants and minimize competition with native vegetation. Applied seeds shall be free from seeds of noxious or invasive weed species. No annual (Italian) ryegrass [*Festuca perennis* (= *Lolium multiflorum*)] shall be used. Seeding shall be at a rate of 100 lbs/acre equivalent barley seed to ensure establishment.
- d) Use of newly constructed crossings during the late season work period shall cease when precipitation is sufficient to generate overland flow off the road surface, or when use of the crossing is causing rutting of the road surface. Crossing use shall not resume until the road bed is dry, defined as a road surface which is no wetter than that found during normal dust abatement

watering treatments and is not rutting or pumping fines or causing a visible turbidity increase in the stream or water sources leading to the stream. Emergency access shall be allowed at any time to correct emergency road related problems and other emergency situations.

- e) Road construction leading directly into or out of a proposed stream crossing shall only be performed when soils are sufficiently dry so that sediment is not discharged into streams.
- f) All crossing installation or removal work shall be conducted in one day, if feasible. If equipment breakdowns prevent completion of installation or removal in one day, work shall be completed in the shortest period feasible.
- g) When the National Weather Service forecast reports a "chance" (30% or more) of rain within 24 hours, and prior to weekend or other shutdown periods, the Permittee shall finish work underway at encroachment prior to sunset and refrain from starting any new work at encroachment prior to the rain event.

2.2 Timing for Crossing Installation and Removal Work. All crossing installation or removal work shall be conducted in one day, if feasible. If equipment breakdowns prevent completion of installation or removal in one day, work shall be completed in the shortest period feasible.

2.3 Removal of Obstructions. The Permittee shall remove obstructions and sediment during the time periods specified if a substantial threat to a facility exists. The Permittee may remove obstructions and sediment at any time if the obstructions and sediment would reasonably be expected to cause substantial damage to resources or cause the facility to fail outside the time periods specified above.

GENERAL CONDITIONS for ALL ENCROACHMENTS

2.4 The Short Stack (THP 2-22-00176-TRI) does not include notification pursuant to Fish and Game Code Section 1600, et seq. for the diversion of water; therefore, this Agreement does not authorize substantial diversion of water during water drafting activities.

2.5 The Permittee shall ensure that all crossing facilities accommodate the estimated 100-year flow including sediment load and debris without diverting, and are installed in accordance with submitted plans and diagrams.

2.6 The Permittee shall ensure that the installation of bridges, culverts or other structures is such that water flow is not impaired and upstream or downstream passage of fish and all aquatic species is assured at all times.

2.7 Vehicles shall not be driven, or equipment operated, in water covered portions of a stream except as may be necessary to construct and remove in-stream structures

to catch and contain water (i.e. cofferdams), to divert stream flow and isolate the work site, or as otherwise specifically provided for in this Agreement.

- 2.8 All heavy equipment that will be entering the live stream shall be cleaned of materials deleterious to aquatic life including oil, grease, hydraulic fluid, soil and other debris. Cleaning of equipment shall take place outside of the Watercourse and Lake Protection Zone (WLPZ) and prior to entering the water.
- 2.9 Any equipment operated within or adjacent to the stream channel shall be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic life, wildlife, or riparian habitat. Stationary equipment such as motors, pumps, generators, and welders that contain deleterious materials, located within or adjacent to a stream shall be positioned over drip pans.
- 2.10 Refueling of equipment and vehicles and storing, adding or draining lubricants, coolants or hydraulic fluids shall not take place within WLPZs or within stream beds, banks or channels. All such fluids and containers shall be disposed of properly. Heavy equipment including water drafting trucks parked within WLPZs or streambeds, banks or channels shall use drip pans or other devices (i.e., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.
- 2.11 All activities performed in or near a stream shall have absorbent materials designated for spill containment and clean-up activities on-site for use in an accidental spill. In the event of a spill, the Permittee shall immediately notify the California Emergency Management Agency at 1-800-852-7550 and immediately initiate the clean-up activities. CDFW shall be notified by the Permittee and consulted regarding clean-up procedures.
- 2.12 No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, asphalt, paint or other coating material, oil or petroleum products or other organic or earthen material from any logging, construction, or associated activity 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. Any fill material used shall be placed and/or removed in such a manner that it shall not cause direct sediment discharge or siltation in the stream.
- 2.13 The Permittee shall armor encroachments and associated structures, fills, and other exposed soils as needed to protect fill, abutments, and the stream channel and banks from erosion. Armoring shall be comprised of rock riprap, large woody debris (LWD), or other non-polluting materials and shall be constructed to remain in place during periods of high flow events. When used on permanent culverts, armoring shall extend at least as high as the top of the culvert, and shall prevent bank erosion by extending a sufficient distance upstream and downstream along the banks.

- 2.14 Encroachments shall be constructed, deconstructed, decommissioned/abandoned, and maintained in a manner that minimizes to the extent feasible headcutting or downcutting of the stream channel by installing grade control such as riprap, woody debris, or through other effective measures.
- 2.15 The disturbed portions of any stream channel and adjacent areas shall be restored to as near their original condition as possible. Crossings facilities shall emulate the natural streambed elevation, substrate and flow velocity to the extent feasible.
- 2.16 Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations.
- 2.17 All non-merchantable LWD excavated during crossing construction, deconstruction or decommissioning shall be used on site for streambed and bank stabilization or erosion control. Woody debris shall not be incorporated into crossing fill.
- 2.18 Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the ordinary high water mark before such flows occur or the end of the yearly work period, whichever comes first.
- 2.19 Erosion control measures shall be made available if encroachment work occurs when the National Weather Service forecast reports a "chance" (30% or more) of rain within 24 hours. The Permittee shall deploy erosion control measures prior to rainfall.
- 2.20 To prevent the degradation of water quality, erosion control materials shall be applied in sufficient quantity prior to the onset of measurable precipitation with re-application as needed to avoid any visible increase in surface erosion or turbidity in any receiving streams. Permittee shall properly install and maintain sediment barriers (including but not limited to filter fabric fencing, fiber mats, weed-free rice straw or fiber wattles or rolls) capable of preventing downstream sedimentation/turbidity. Geotextiles, fiber rolls, and other erosion control treatments shall not contain plastic mesh netting. Said devices shall be cleaned of all trapped sediment as necessary to maintain proper function. Recovered sediment shall be disposed of where it shall not return to the Waters of the State. Said devices shall be completely removed from the channel, along with all temporary fills, upon completion of operations.
- 2.21 To maintain channel flow capacity and/or minimize bank erosion, sediment depositions in the stream channel above or below encroachments that have the potential to be washed downstream following work shall be excavated annually and disposed of in a location where they cannot enter into Waters of the State.
- 2.22 Soils adjacent to the stream channel that are exposed by project operations shall be adequately stabilized when rainfall is reasonably expected during construction, and immediately upon completion of construction, to prevent the mobilization of

such sediment into the stream channels or adjacent wetlands. National Weather Service forecasts shall be monitored by the Permittee to determine the chance of precipitation.

- 2.23 All bare mineral soil outside of the stream channel exposed in conjunction with project activities shall be treated for erosion prior to the onset of precipitation capable of generating run-off or the end of the yearly work period, whichever comes first. Restoration shall include the seeding and mulching of all bare mineral soil with at least 1 to 2 inches weed-free straw mulch with greater than 90% coverage. In addition to mulching, seeds may be applied. If used, seeds shall be native or regionally appropriate plants, sterile varieties, or short lived non-native annuals that are known not to persist or spread such as cereal cover crops [i.e., barley (*Hordeum vulgare*), buckwheat (*Fagopyron esculentum*), oats (*Avena sativa*), rye (*Secale cereale*), wheat (*Triticum aestivum*)] to avoid the propagation of non-native (invasive) plants and minimize competition with native vegetation. Applied seeds shall be free from seeds of noxious or invasive weed species. No annual (Italian) ryegrass [*Festuca perennis* (= *Lolium multiflorum*)] shall be used. Seeding shall be at a rate of 100 lbs/acre equivalent barley seed to ensure establishment.
- 2.24 Approaches to all encroachments shall be treated to minimize the generation and direct transport of sediment to streams. Treatment locations shall include, but not be limited to, road surfaces, fill faces, cut banks, and road drainage ditches.
- 2.25 Road approaches and other work shall be left in a finished condition with all hydrologic connectivity from the road or ditch to the site eliminated as feasible and effective erosion control in place prior to any rainfall event capable of generating runoff. Effective erosion control shall extend away from the crossing to at least the first waterbreak.

CONDITIONS for TEMPORARY CROSSINGS

- 2.26 The Permittee shall remove structures and associated materials not designed to withstand high seasonal flows to areas above the high water mark before such flows occur.
- 2.27 At all temporary crossings, logs, green slash, tops and/or weed-free straw bales shall be used as fill instead of earthen material to the maximum extent feasible.
- 2.28 In a live stream, temporary crossing fill shall only be composed of clean, durable, screened rock and a culvert or a combination of such rock, filter fabric, sound logs and green slash, and weed-free straw. These materials shall cause no siltation. Above this fill, a fractured rock or native soil cap may be installed to provide a compacted road surface. The cap's thickness and soil content shall not exceed the minimum necessary to provide for adequate compaction. No soil from the cap shall come in contact with the stream channel.

- 2.29 During temporary crossing deconstruction and removal activities, when stream crossings, stream channels, and fills are excavated, all materials shall be excavated down to the original stream channel and outwards, horizontally, as wide as or wider than the natural channel to form a channel as close as feasible to the natural stream grade and alignment.
- 2.30 Spittler and modified-Spittler type crossings include a culvert to carry flows (when present) choked-logs to fill the channel, a six inch minimum weed-free straw layer, and a temporary running surface of local topfill or rock. Culverts shall be of sufficient size to accommodate the expected flow during the use period. Log fill crossings (Spittler) shall be constructed by laying choker cables or similar cables across stream channel, then placing pipe and/or sound logs in the channel bottom. The logs shall then be covered with filter fabric and/or weed-free straw mats, and rock or a local topfill for road surfacing. For removal, the topfill is scraped off, the logs removed as a unit by pulling the chokers, and loose soil removed from the crossing using mechanized equipment and/or hand tools, as necessary. The straw layer in temporary log fill crossings (Spittler) shall extend beyond the road fill surface to prevent fill from entering the logs and stream (i.e., the straw layer should be visible on the crossing edges after installation). If whole bales are used the twine shall be cut after installation of the bales to create a continuous straw layer.
- 2.31 The Permittee may use flatcars, log stringers, plate, or other clear-span designs as temporary bridges. Temporary bridges shall be removed by the end of the work period in each year. Fills for abutments below bankfull stage shall be log and/or rock. Log stringer bridges shall be surfaced with filter fabric or weed-free straw, under a road surface layer of rock, to prevent surface material from entering the channel during use.
- 2.32 If a temporary bridge is installed, the Permittee is responsible for maintaining free-flowing conditions under the bridge and clearing all debris that does not pass, as long as the bridge remains in place.

CONDITIONS for DECOMMISSION/DECONSTRUCTION (Removal of Crossings)

- 2.33 During crossing removal, the Permittee shall excavate all fill material to recreate the natural channel grade and orientation, with a channel bed that is as wide as or slightly wider than the original watercourse.
- 2.34 The natural channel grade shall be determined by the Permittee by approximating a straight line through the crossing between the natural channel bottom upstream and downstream of the crossing.
- 2.35 When stream crossings and fills are removed, all fill shall be excavated down to the original stream channel and outwards, horizontally, as wide as or wider than the natural channel to form a channel as close as feasible to the natural stream grade and alignment. The restored stream bank slopes shall be no steeper than a

2:1 slope (horizontal:vertical) or original ground. Restored slopes shall be stabilized to prevent slumping and to minimize soil erosion that could lead to sediment deposition into Waters of the State.

- 2.36 The Permittee shall ensure the banks of the channel shall be laid back to a stable repose, generally at an angle less than that of adjacent, non-roadbed affected banks. Such slopes shall not be steeper than 1.5:1 (horizontal:vertical) unless armored with rip-rap or other effective means.
- 2.37 Sites previously not fully excavated shall be completely excavated when crossings are decommissioned or abandoned. Adjacent potentially unstable road or landing fill that can enter a stream shall also be excavated when crossings are deconstructed.
- 2.38 All excavated fill shall be placed in stable areas where it cannot enter or erode into a stream.
- 2.39 The Permittee shall rock or otherwise armor the approaches to pulled crossings and the bed, banks and channel as needed so that use of the pulled crossings by vehicles does not substantially alter streams and use does not cause discharge of muddy, turbid or sediment-laden waters into Waters of the State.
- 2.40 The Permittee shall restore or replace habitat structures (boulders and large woody debris) removed during crossing installation in equal quantities after removing the crossing.
- 2.41 The Permittee shall place or construct barricades to effectively prevent access by standard-production four-wheel-drive passenger vehicles (excluding all-terrain vehicles) at all points of access to the abandoned road.

GENERAL CONDITIONS for ALL WATER DRAFTING OPERATIONS

- 2.42 Drafted water shall only be used for the purposes of dust abatement; road maintenance; road and stream crossing; and crossing upgrades.
- 2.43 Drafting by more than one truck shall not occur simultaneously at the same site.
- 2.44 All water drafting vehicles should be checked daily and shall be repaired as necessary to prevent leaks of deleterious materials from entering the stream and WLPZ.
- 2.45 Where overflow run-off from water trucks or storage tanks may enter the stream, effective erosion control devices shall be installed such as water bars, gravel berms, or hay bales.
- 2.46 Road approaches and truck pads shall be treated as necessary to prevent sediment production and delivery to a stream or waterhole. Approaches shall be

armored to a minimum depth of 4 inches with durable compacted gravel, rock, or comparable material, from the edge of the watercourse out to 50 feet, or to the nearest water bar or point of hydrologic divide. The approaches shall be hydrologically disconnected to the maximum extent feasible and shall be maintained as necessary during use. Brow logs or large rocks shall be placed at the end of the truck pad where needed to prevent overland flow into the water source, and to limit truck access.

- 2.47 During water diversion pump intakes shall be fitted with screen made of woven mesh, perforated plate, wedge wire, or other durable fabric. The screen medium shall be able to withstand forces related to pumping and be of sufficient size to prevent impingement or entrainment of aquatic vertebrates during drafting operations.
- 2.48 Openings in the screens of Class II watercourse drafting intakes shall not exceed 1/8 inch in width for slotted or square openings or 3/32 inch diameter for round openings.
- 2.49 The velocity of water across the screen surface shall not exceed 0.33 feet per second at any point on the screen surface.
- 2.50 Pump intakes shall rest above the bottom of the channel and away from submerged vegetation. Screens and intakes shall be kept in good repair, and kept clean and free of accumulated algae, leaves, or other debris or obstructions. Screens and intakes shall be inspected during site visits to monitor drafting rates.

Class II streams temporarily dammed to create a drafting pool shall provide passage for aquatic organisms in all life stages, generally by allowing water flow through rocks and limiting the dam height to one foot. Temporary dams shall be removed prior to October 15 each operating season.

- 2.51 When diverting water from any Class II stream, bypass flows shall be maintained that ensure continuous surface flow in downstream reaches to keep aquatic organisms in downstream reaches in good condition.
- 2.52 At the end of drafting operations, and prior to October 15 of each drafting season, intake screens shall be removed and drafting pipes plugged, capped, or otherwise blocked (i.e. with a valve shut-off) or removed from the active channel. Before October 15, the obstructions to the CMPs will be pulled prior to a shutdown period (day, weekend, holiday etc.) in which there is a chance of rain 30% or greater as forecasted by the National Weather Service. The obstructions can then be re-installed as needed but must be removed by November 15 for the season provided the conditions in 2.1 (a-g) have been satisfied. The obstructions can then be re-installed if the seven day National Weather Forecast indicates there is less than a 30% chance of rain.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

To Permittee:

Steven Emershly
P.O. Box 478
Weaverville, CA 96093
SEmershy@spi-ind.com

To CDFW:

Department of Fish and Wildlife
Northern Region
601 Locust Street
Redding, CA 96001
Attn: Lake and Streambed Alteration Program – Richard Klug
Notification EPIMS-TBD
Richard.klug@wildlife.ca.gov

LIABILITY

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

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

SUSPENSION AND REVOCATION

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

Before CDFW suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the

Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

ENFORCEMENT

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

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

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with, or obtaining any other permits or authorizations that might be required under, other federal, state, or local laws or regulations before beginning the project or an activity related to it. For example, if the project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

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

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

AMENDMENT

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

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

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

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

EXTENSIONS

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

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

EFFECTIVE DATE

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

TERM

This Agreement shall expire 5 years from department signature, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as Fish and Game Code section 1605, subdivision (a)(2) requires.

EXHIBITS

Maps of the encroachment sites are included as exhibits to the Agreement and are incorporated herein by reference (Exhibit maps adapted from THP: THP 2-22-00176-TRI).

AUTHORITY

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

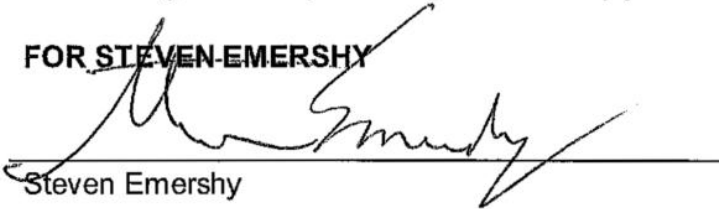
AUTHORIZATION

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

CONCURRENCE

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

FOR STEVEN EMERSHY



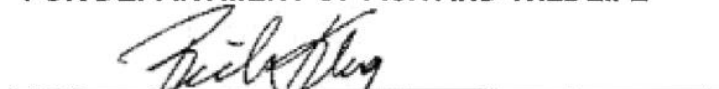
Steven Emershy

Registered Professional Forester

2-17-2023

Date

FOR DEPARTMENT OF FISH AND WILDLIFE



Richard Kiug

Timberland Conservation Program Supervisor

02/22/2023

Date

Prepared by: Kim Backes
Environmental Scientist
February 17, 2023

EXHIBIT 1:

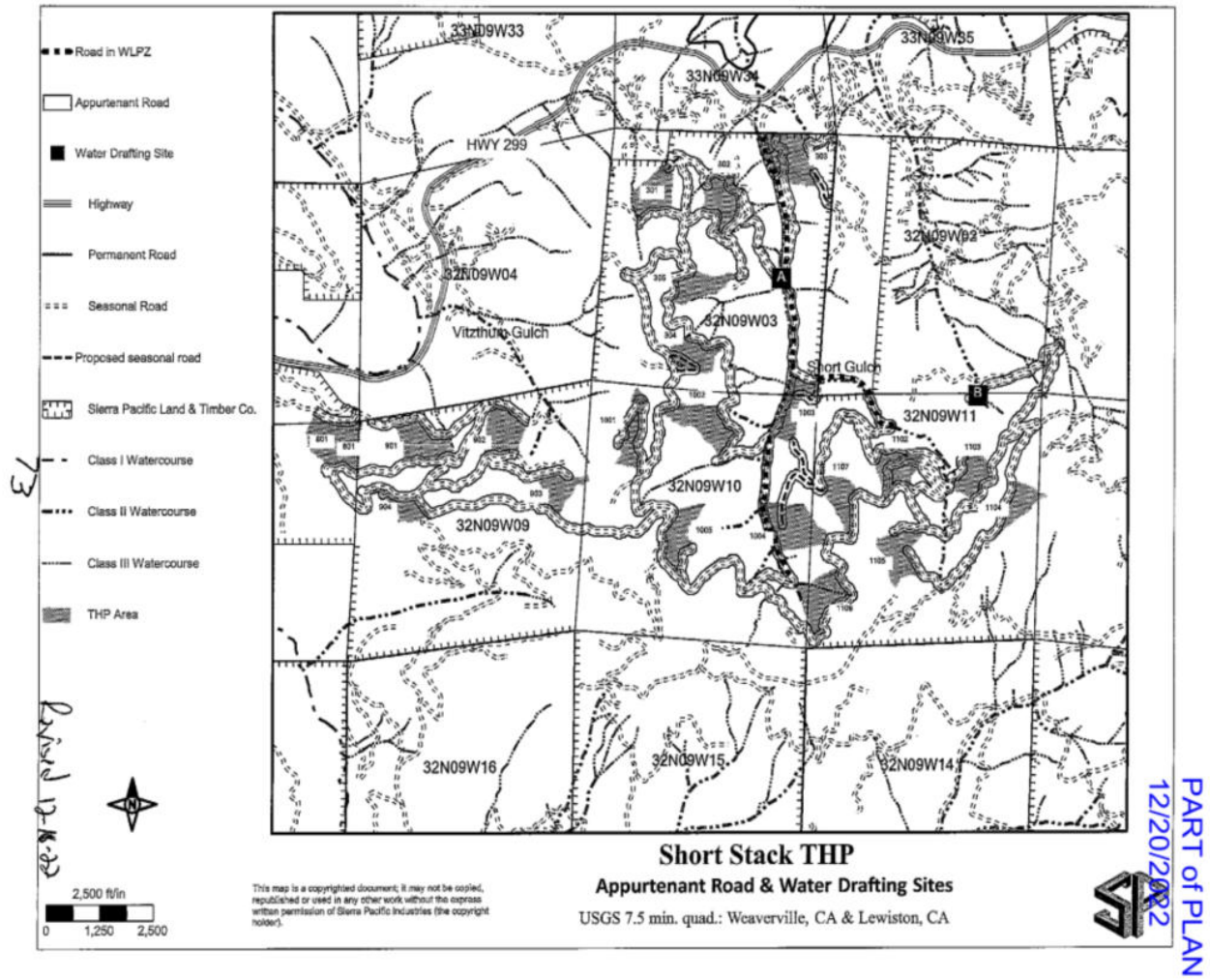


EXHIBIT 2:

