



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



August 24, 2023

Che Casul
Sonoma Resource Conservation District (RCD)
1221 Farmers Lane, Suite F
Santa Rosa, CA 95405
CCasul@sonomarc.org

Dear Mr. Casul:

Final Lake or Streambed Alteration Agreement, EPIMS Notification No. EPIMS-SON-35682-R3, Sonoma RCD Levee Maintenance Program

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

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

If you have any questions regarding this letter, please contact James Hansen, Environmental Scientist, at (707) 576-2869 or by email at James.Hansen@Wildlife.ca.gov.

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



STREAMBED ALTERATION AGREEMENT

EPIMS-SON-35682-R3

PETALUMA RIVER, SONOMA CREEK, NORTH BRANCH SONOMA CREEK, EAST BRANCH SONOMA CREEK, SAN ANTONIO CREEK, SCHELL CREEK, TOLAY CREEK, SCHELL SLOUGH, RAILROAD SLOUGH, MUD SLOUGH, HUDEMAN SLOUGH, SECOND NAPA SLOUGH, SAN PABLO BAY, AND UNNAMED TRIBUTARIES AND SLOUGHS

SONOMA RESOURCE CONSERVATION DISTRICT (SONOMA RCD)
ROUTINE MAINTENANCE AGREEMENT - SONOMA RCD DISTRICT LEVEE
MAINTENANCE PROGRAM

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Sonoma RCD (Permittee) as represented by Che Casul.

RECITALS

WHEREAS, pursuant to Fish and Game Code section 1602, Permittee notified CDFW on February 17, 2023, that Permittee intends to complete the project described herein.

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

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

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

PROJECT LOCATION

The project is located at 23 distinct locations at the streams in the title of this section Agreement (Table 1) within the Petaluma River and Sonoma Creek watersheds, in the County of Sonoma, State of California.

Table 1. Location Information

Map ID #	Assessor Parcel Number	County	Latitude	Longitude
12-A	068-120-012	Sonoma	38.149579	-122.51982
7-B	068-110-052	Sonoma	38.17956	-122.534974
19-B	068-130-001; 068-130-008	Sonoma	38.133083	-122.506053
13-C	125-130-06; 125-130-05; 019-360-069 (Sonoma); 125-130-04	Marin	38.186331	-122.587817
14-C	068-120-001; 068-120-002	Sonoma	38.155469	-122.529594
11-H	068-110-025	Sonoma	38.174568	-122.52962
24-H	068-120-015	Sonoma	38.143266	-122.518851
4-R	017-170-001; 068-010-034	Sonoma	38.223113	-122.587774
15-J	068-020-001; 068-020-002	Sonoma	38.205974	-122.559789
18-R	125-190-70; 125-190-24; 125-190-54	Marin	38.140740	-122.555323
23-R	125-160-13	Marin	38.165038	-122.562190
20-C	128-491-056	Sonoma	38.218974	-122.447668
6-F	142-122-004; 068-190-021; 068-190-022	Sonoma	38.183859	-122.441013
21-L	128-491-006; 128-491-016; 128-491-005; 128-491-007	Sonoma	38.20955	-122.398608
31-M	128-491-059	Sonoma	38.21287	-122.449353
17-M	128-471-015; 128-471-014; 128-471-004; 128-471-006; 128-471-003; 128-471-007	Sonoma	38.234978	-122.438317
32-P	128-471-017	Sonoma	38.222771	-122.447181
3-S	128-491-040; 128-491-011; 142-122-001	Sonoma	38.202391	-122.444985
2-S	068-130-013	Sonoma	38.128959	-122.498098
30-T	068-180-003; 068-180-017; 068-180-006; 068-180-007;	Sonoma	38.14048	-122.421036

	068-180-005; 068-180-013; 068-180-004; 068-180-011; 068-180-020			
9-T	068-060-038	Sonoma	38.182914	-122.539057
26-Y	068-220-001; 068-220-002; 068-220-003; 068-220-004; 068-220-005; 068-220-006; 068-220-007; 068-220-008; 068-220-009; 068-220-010; 068-220-011; 068-220-012; 068-220-013; 068-220-014; 068-220-015	Sonoma	38.162405	-122.430844
28-M	128-491-022; 128-491-023	Sonoma	38.191627	-122.432284

PROJECT DESCRIPTION

The Project is limited to routine maintenance activities scheduled and implemented as necessary to maintain existing levees protecting the adjacent properties from flooding.

Maintenance activities considered to be “routine” are described in Attachment A. In summary these activities include mechanical dredging of sediment from adjacent waterways to reinforce levee structures. Specifically, dredging of up to four cubic yards (cy) of material per linear-foot of levee, not to exceed 10,000-cubic yards or 2,500-linear feet per parcel in one year, for placement onto existing levees. Dredging volumes shall not exceed 150,000 cy in any given year. Mechanical dredging will be completed using long-reach clamshell excavators or a drag line excavator working from the top of existing levees, and dredged material will be excavated on the outboard side of the levee at the extreme reach of the available equipment to avoid damage to the levee toe. Dredging will not occur within 10 feet of the toe of the levee. Dredged material will be placed on the levee crown and mechanically compressed. Maintenance activities may result in minor temporary loss of salt marsh habitat in the form of targeted pickleweed removal using hand tools, as is required under Measure 2.23.

Routine maintenance does not include: 1) any activities other than the activities described above, and 2) the removal or damage of riparian vegetation except as described in this Agreement.

For fee purposes, a project is defined as a routine maintenance activity performed by the Sonoma RCD during a given year in an identified specific area as described in Table 1 above. Each annual activity shall be considered to be one project. A project does not include minor debris removal such as minor tree trimming, removing a shopping cart or a bag of garbage.

Routine maintenance levee maintenance activities were previously permitted under Agreement number 1600-2012-0364-R3.

PROJECT IMPACTS

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

- California Ridgeway's rail (*Rallus obsoletus obsoletus*), California Endangered Species Act (CESA) listed as Endangered, California Fully Protected Species, Federal Endangered Species Act (ESA) listed as Endangered
- California black rail (*Laterallus jamaicensis coturniculus*), CESA listed as Threatened, California Fully Protected Species
- Salt-marsh harvest mouse (*Reithrodontomys raviventris*), CESA listed as Endangered, California Fully Protected Species, ESA listed as Endangered
- Steelhead – central California coast Distinct Population Segment (DPS) (*Oncorhynchus mykiss irideus* pop. 8), ESA listed as Threatened
- Chinook salmon – central Valley fall Evolutionarily Significant Unit (ESU) (*Oncorhynchus tshawytscha*), California Species of Special Concern (SSC), ESA listed as Threatened
- Green sturgeon – southern DPS (*Acienser medirostris* pop. 1), ESA listed as Threatened
- Longfin smelt (*Spirinchus thaleichthys*), CESA listed as Threatened
- Tricolored blackbird (*Agelaius tricolor*), CESA listed as Threatened
- Burrowing owl (*Athene cunicularia*), SSC
- Saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*), SSC
- San Pablo song sparrow (*Melospiza melodia samuelis*), SSC
- Sacramento splittail (*Pogonichthys macrolepidotus*), SSC
- Soft salty bird's beak (*Chloropyron molle* ssp. *molle*), California Native Plant Protection Act listed as Rare, ESA listed as Endangered, California Rare Plant Rank (CRPR) 1B.2
- Delta tule pea (*Lathyrus jepsonii* var. *jepsonii*), CRPR 1B.2
- common aquatic organisms
- nesting birds
- waterfowl
- salt marsh habitat
- aquatic habitat
- riparian habitat
- water quality

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

- disruption to species listed above
- disruption of salt marsh, aquatic, and riparian habitat
- colonization by exotic plant species
- temporary loss of riparian habitat
- loss of aquatic and terrestrial wildlife species
- temporary impediment to migration of aquatic and terrestrial species
- alter the existing drainage pattern of the site in a manner which would result in on- or off-site erosion
- change in flow depth, width, or velocity
- change in composition of channel materials
- change in contour of bed, channel or bank
- change in gradient of bed, channel or bank
- change in channel cross-section
- loss of bank stability during construction
- soil compaction or other disturbance to soil layer
- increased bank erosion during construction
- restriction or increase in sediment transport
- increased turbidity
- short term release of contaminants

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 at any time, after giving the Permittee at least 24 hours of notice, to verify compliance with the Agreement.
- 1.5 Notify CDFW Prior to Work. The Permittee shall notify CDFW by email at least five working days prior to commencement of covered activities. See contact information below.
- 1.6 No Trespass. To the extent that any provisions of this Agreement provide for activities that require the Permittee to traverse another owner's property, such provisions are agreed to with the understanding that the Permittee possesses the legal right to so traverse. In the absence of such right, any such provision is void.
- 1.7 Unauthorized Take. The Permittee is required to comply with all applicable State and Federal laws, including the California Endangered Species Act (CESA) and federal Endangered Species Act. This Agreement does not authorize the take of any State or Federal endangered or threatened species. Liability for any take or incidental take of such listed species remains the responsibility of the Permittee for the duration of the Project. Any unauthorized take of such listed species may result in prosecution and nullification of the Agreement.
- 1.8 Fish Passage. The Project shall comply with Fish and Game Code section 5901 and shall not install or maintain any device or contrivance that prevents, impedes, or tends to prevent or impede, the passing of fish up and down stream.
- 1.9 Authorized Maintenance Activities. Only those activities specifically mentioned in Attachment A to this Agreement may be conducted under this Routine Maintenance Agreement.
- 1.10 Exceptions to Authorized Activities. Permittee shall submit separate notification pursuant to Section 1602 of the California Fish and Game Code, together with the required fee prescribed in the CDFW Lake and Streambed Alteration Agreement fee schedule, and otherwise follow the normal notification process prior to the commencement of work activities in all cases where one or more of the following conditions apply:
 - The proposed work does not meet the established criteria for routine maintenance activities in the Project Description of this Agreement.
 - The nature of the work is substantially modified from the work described in the Project Description of this Agreement.
 - CDFW advises the Permittee that conditions affecting fish and wildlife resources have substantially changed at a specific work site or that such resources would be adversely affected by the Project activities.

- 1.11 CDFW Field Review. CDFW may review in the field any maintenance work submitted or may require that additional conditions be applied to specific activities and amended into this Routine Maintenance Agreement, or that certain project activities may require separate notification and development of a separate Lake and Streambed Alteration notification and Agreement. Permittee shall obtain an amendment to this Agreement if required by CDFW.
- 1.12 Designated Representative. Before initiating ground-disturbing Project activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this Agreement. The Permittee shall notify CDFW in writing five days prior to commencement of Project activities of the Designated Representative's name, business address, and contact information. Permittee shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this Agreement.

2. Avoidance and Minimization Measures

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

- 2.1 Work Period. All work shall begin on or after August 1 and all work shall be completed by October 31 to protect fish and wildlife and their habitats, including but not limited to longfin smelt and anadromous salmonids, except work may start on or after July 1 in areas upstream of Highway 37. If more time is needed to complete Project activities, the work period may be modified in writing on a week-by-week basis by a CDFW representative. Requests for a work period extension shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; 4) provide photographs of both the current work completed and the proposed site for continued work; and 5) include an assessment of additional biological impacts as a result of the work extension.
- 2.2 Conduct Work During Daylight Hours. Work is restricted to daylight hours (one hour after sunrise to sunset).
- 2.3 Work According to Documents. Except as they are contradicted by measures required by this Agreement, all work shall be conducted in conformance with the project description above and the avoidance, minimization, and mitigation measures provided in the notification package.
- 2.4 Revise Levee Maintenance Vicinity Map. At least 30 days prior to the commencement of project activities, the Permittee shall submit to CDFW for written approval a revised Levee Maintenance Vicinity Map (Map). The revised Map shall have the "Maintenance Windows" box removed and shall also have the overlay of

“CA Clapper Rail Habitat” removed to avoid conflict with measures in this Agreement.

- 2.5 Work according to plans. All work shall be completed according to the plans, and all associated appendices and attachments, submitted to CDFW. If the Permittee finds it necessary to update project plans prior to construction, the updated plans will be submitted to CDFW at least 30 days prior to beginning project activities to determine if an Amendment to this Agreement is required. Project activities shall not proceed until CDFW has accepted the updated plans in writing. At the discretion of CDFW, minor plan modifications may require an amendment to this Agreement. At the discretion of the CDFW, if substantial changes are made to the original plans this Agreement becomes void and the Permittee shall submit a new notification.
- 2.6 Best Management Practices. All Best Management Practices (BMPs) and other conditions as submitted in the Notification shall be implemented as part of this project, unless otherwise conditioned herein.
- 2.7 Excavation at Toe of the Levee. No dredging shall occur within 10 feet of the toe of the levee on the waterborne side of the levee. All salt marsh habitat shall be avoided to the greatest extent feasible.
- 2.8 No equipment staged below the top of bank. No tracked or wheeled equipment shall be staged below the top of bank. Only the excavator arm or bucket may extend below the top of bank into the stream.
- 2.9 Prevent Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one project site and/or waterbody to another. Permittee shall follow the prevention Best Management Practices and guidelines for invasive plants, which can be found on the California Invasive Plant Council’s website: <https://www.cal-ipc.org/solutions/prevention/>, and for invasive mussels and other aquatic invasive species, which can be found at the Stop Aquatic Hitchhikers website: <https://stopaquaticitchhikers.org/>.
- 2.10 Inspection of Project Equipment. Permittee shall inspect all vehicles, pipes, pumps, tools, waders and boots, and other project related equipment and remove all visible soil/mud, plant materials, and animal remnants prior to entering and exiting the project site and/or between each use in different waterbodies.
- 2.11 Decontamination of Project Equipment. Permittee shall decontaminate all tools, waders and boots, and other equipment that will enter the water prior to entering the project site and/or when moving between different waterbodies to avoid the introduction and transfer of organisms between waterbodies. Permittee shall decontaminate project gear and equipment utilizing one of three methods: drying,

using a hot water soak, or freezing, as appropriate to the type of gear or equipment. For all methods, Permittee shall begin the decontamination process by thoroughly scrubbing equipment, paying close attention to small crevices, such as bootlaces, seams, net corners, etc., with a stiff-bristled brush to remove all organisms. To decontaminate by drying, Permittee shall allow equipment to dry thoroughly (i.e., until there is a complete absence of water), preferably in the sun, for a minimum of 48 hours. To decontaminate using a hot water soak, Permittee shall immerse equipment in 140°F or hotter water and soak for a minimum of 5 minutes. To decontaminate by freezing, Permittee shall place equipment in a freezer 32°F or colder for a minimum of 8 hours. Repeat decontamination is required only if the equipment/clothing is removed from the site, used within a different waterbody, and returned to the project site.

- 2.11.1 Decontamination of Vehicles and Equipment. Permittee shall decontaminate vehicles and other project-related equipment that will enter the water, which are too large to immerse in a hot water bath by pressure washing with hot water a minimum of 140°F at the point of contact or 155°F at the nozzle or by using other effective techniques.
- 2.11.2 Decontamination Sites. Permittee shall perform decontamination of vehicles, watercraft, and other project gear and equipment in a designated location where runoff can be contained and not allowed to pass into streams, lakes, and other sensitive habitat areas.
- 2.12 Imported Materials. Rock, gravel, and/or other materials shall not be imported to, taken from, or moved within the beds or banks of the channel except as otherwise addressed in this Agreement, unless approved in writing by CDFW.
- 2.13 Deleterious turbidity. 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 Fish and Game Code 5650, which addresses water pollution. If project activities are found to constitute a threat to aquatic life, CDFW approved control devices shall be installed, or abatement procedures initiated prior to continuing activities.
- 2.14 Special-status Fish Avoidance. If any special-status fish are observed during the project, all work shall stop and CDFW shall be immediately notified. Work shall not resume until CDFW provides written verification that the project may proceed. If CDFW determines that take of state listed fish may occur, Permittee shall amend this Agreement and obtain a CESA Incidental Take Permit.

Weather Restrictions

- 2.15 Work Period in Dry Weather Only. Project work shall be restricted to dry weather as allowed during the work period specified in Measure 2.1. Construction shall be

timed with awareness of precipitation forecasts and potential increases in stream flow. Construction activities shall cease when the National Weather Service (NWS) 24-hour weather forecast indicates a 30 percent chance or higher of precipitation. All necessary erosion control measures shall be implemented prior to the onset of precipitation. Construction equipment and materials shall be removed if inundation is likely. Construction activities halted due to precipitation may resume when precipitation ceases and the NWS 72-hour weather forecast indicates less than a 30 percent chance of precipitation. No work shall occur during a dry-out period of 24 hours after the above referenced wet weather. Weather forecasts shall be documented upon request by CDFW.

Wildlife Protection – Fully Protected Species

- 2.16 Fully Protected Species. A Qualified Biologist or Biological Monitor shall be present on site to survey and monitor for CDFW Fully Protected species, including salt marsh harvest mouse (SMHM), California Ridgway's (formerly California Clapper) rail (CRR), and California black rail (CBR), during: a) all vegetation removal, b) the construction of exclusion fencing, and c) all work within 300 feet of tidal or pickleweed habitats. The Qualified Biologist or Biological Monitor shall have the authority to stop work if deemed necessary for any reason to protect these species, or any other special status species. Take or possession of these CDFW Fully Protected species is prohibited and no permits may be issued for such (Fish & G. Code, §§ 3511 & 4700).
- 2.17 Ridgway's (California Clapper)/Black Rail – High Tide Restrictions. No project activities shall occur within 50 feet of suitable California Ridgway's rail or California black rail habitat during extreme high tide events or when adjacent tidal marsh is flooded. Extreme high tides events are defined as a tide forecast of 6.5 feet or higher measured at the Golden Gate Bridge and adjusted to the timing of local high tides.
- 2.18 Ridgway's (California Clapper)/Black Rail – Avoidance and Surveys. Project activities within 700 feet of tidal marsh or suitable California Ridgway's rail (CRR) or California black rail (CBR) habitat shall be avoided during rail breeding season (January 15 – August 31 for CRR, February 1 – August 31 for CBR) each year unless appropriately timed, yearly protocol level surveys are conducted and survey methodology and results are submitted to and accepted by CDFW. Surveys shall focus on suitable habitat that may be disturbed by project activities during the breeding season to ensure that these species are not nesting in these locations.

If breeding rails are determined to be present, no activities, visual disturbance (direct line of sight) and/or an increase in the ambient noise level shall occur within 700 feet of areas where CRR and/or CBR have been detected during the breeding season. If surveys have not been conducted, all work shall be conducted a minimum of 700 feet from CRR and/or CBR habitat during nesting season.

- 2.19 Salt Marsh Harvest Mouse – High Tide Restrictions. No project activities shall occur within 50 feet of suitable tidal marsh habitat for the salt marsh harvest mouse (SMHM) within two (2) hours before and after an extreme high tide event (6.5 feet or higher measured at the Golden Gate Bridge and adjusted to the timing of local high tides) or when adjacent marsh is flooded unless SMHM proof exclusion fencing has been installed around the work area.
- 2.20 Salt Marsh Harvest Mouse – Vegetation. Prior to impacting pickleweed (*Salicornia pacifica*) vegetation that is above the waterline during project activities, an approved qualified biologist or biological monitor, familiar with salt marsh harvest mouse (SMHM), shall walk through and inspect suitable habitat prior to vegetation removal and search for signs of harvest mice or other sensitive wildlife and plants. Following inspection, personnel, under the supervision of the Qualified Biologist, will disturb (e.g., flush) vegetation to force movement of SMHM into adjacent marsh areas. Flushing of vegetation will first occur in the center of the site then progress toward the two sides away from the open water areas or in this case, away from impacted habitat. Immediately following vegetation flushing, personnel, under the supervision of the Qualified Biologist, will remove vegetation with hand tools (e.g., weed-eater, hoe, rake, trowel, shovel, grazing) so that vegetation is no taller than 2 inches.
- 2.20.1 Salt Marsh Harvest Mouse – Exclusion Fencing. After vegetation removal, a mouse proof barrier shall be placed along the edge of the area removed of vegetation to further reduce the likelihood of salt marsh harvest mouse returning to the area prior to construction. The fence shall be made of a heavy plastic sheeting material that does not allow salt marsh harvest mice to pass through or climb, and the bottom shall be buried to a depth of 4 inches so that salt marsh harvest mouse cannot crawl under the fence. Fence height shall be at least 12 inches higher than the highest adjacent vegetation with a maximum height of 4 feet. All supports for the exclusion fencing shall be placed on the inside of the work area. An approximately 2-foot wide de-vegetated buffer shall be created along the habitat side of the exclusion fence.
- 2.20.2 Salt Marsh Harvest Mouse – Inspections. The salt marsh harvest mouse exclusion fencing shall remain in operating condition throughout the duration of all project activities in salt marsh habitat. The qualified biologist or biological monitor shall daily inspect the integrity of the exclusion fencing to ensure there are no gaps, tears or damage. Maintenance of the fencing shall be conducted as needed. Any necessary repairs to the fencing shall be completed within 24 hours of the initial observance of the damage. Any mice found along or outside the fence shall be closely monitored until they move away from the project area

Wildlife Protection and Prevention

- 2.21 CDFW Approved Qualified Biologist or Biological Monitor On-site. A Qualified Biologist or Biological Monitor shall be on site daily to monitor compliance with all

conditions of this Agreement unless otherwise approved in writing by CDFW. The Qualified Biologist or Biological Monitor shall have the authority to halt project activities, through communication with the Project Manager or their on-site designee, in order to comply with the terms of this Agreement and otherwise avoid impacts to species and or habitats. If the on-site Qualified Biologist or Biological Monitor has requested a work stop due to failure to implement any of the conditions CDFW shall be contacted within 24 hours.

- 2.22 Biologist Approval. No later than 30 days prior to project activities covered by this Agreement, the Permittee shall submit to CDFW, for review and approval, the qualifications for the biologist(s) that shall oversee the implementation of the conditions in this Agreement and conduct surveys or monitoring work using the Biologist Resume Form, (found at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=202869>), or another format containing the same information. Project activities covered by this Agreement may not commence unless CDFW has approved the proposed biologist(s) in writing. At minimum the CDFW approved Qualified Biologist(s) shall have a minimum of five years of academic training and professional experience in biological sciences and related resource management activities with a minimum of two years conducting surveys for species that may be present and impacted within the project area. At minimum the CDFW approved Biological Monitor(s) shall have a minimum of five years of academic training and professional experience in biological sciences and related resource management activities and knowledge of the relevant species.
- 2.23 Training Session for Personnel. Permittee shall ensure that a CDFW-approved Qualified Biologist conducts an education program for all persons employed on the project prior to performing covered activities. Instruction shall consist of a presentation by the designated qualified biologist that includes a discussion of the biology and general behavior of any sensitive species that may be in the area, how they may be encountered within the work area, and procedures to follow when they are encountered. The status of CESA and Federal Endangered Species Act listed species including legal protection, penalties for violations and project-specific protective management measures provided in this Agreement shall be discussed. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers prior to on-site project activity. Copies of the Agreement for this project shall be maintained at the worksite with the project supervisor. Permittee or designated biologist shall prepare and distribute wallet-sized cards or a factsheet handout containing this information for workers to carry on-site. Upon completion of the program, employees shall sign an affidavit stating they attended the program and understand all protection measures. These forms shall be filed at the Permittee's office and be available to CDFW upon request.
- 2.24 Daily Inspections. At the beginning of each workday, a Biological Monitor shall inspect the project area unless otherwise approved in writing by CDFW. If special status species are encountered during project activities, all work shall cease and

CDFW shall immediately be notified. Work shall not proceed without written approval from CDFW.

- 2.25 Special Status Species Encountered During Work. If Permittee encounters special status species during project activities, work shall be suspended, CDFW notified, and avoidance and minimization measures shall be developed in agreement with CDFW prior to re-initiating the activity.
- 2.26 Pre-Project Special-Status Plant Habitat Assessment and Surveys. Prior to the commencement of any project activities, a Qualified Biologist shall conduct botanical surveys during the appropriate blooming period for special-status plants, unless otherwise approved in writing by CDFW. Surveys shall be conducted following CDFW's 2018 *Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Sensitive Natural Communities* (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>). More than one year of surveys may be required to establish that plants are absent. Permittee shall obtain written approval of the survey reports from CDFW prior to the start of construction. If soft salty bird's beak, Delta tule pea, or other special status plants are observed, the Project shall: 1) avoid all direct and indirect impacts to the special status plants, and 2) prepare and implement an avoidance plan that is approved in writing by CDFW prior to project start. If CESA or NPPA listed plants are observed and impacts cannot be avoided, Permittee shall obtain a CESA Incidental Take Permit prior to the start of construction.
- 2.27 Tricolored Blackbird. If nesting tricolored blackbird or evidence of their presence is found, CDFW shall be notified immediately and work shall not occur without written approval from CDFW allowing the project to proceed. Project activities shall not occur within 500 feet of an active nest unless otherwise approved in writing by CDFW. If impacts to tricolored blackbird cannot be avoided, Permittee shall obtain a CESA Incidental Take Permit prior to the start of construction.
- 2.28 Burrowing Owl Avoidance. To protect wintering burrowing owl, a Qualified Biologist shall conduct a habitat assessment, and surveys if warranted based on the habitat assessment, pursuant to the *Department of Fish and Game Staff Report on Burrowing Owl Mitigation (2012)* survey methodology prior to project activities beginning during the non-breeding wintering season (September 1 to October 31), unless otherwise approved in writing by CDFW. The survey area shall include the project site and a minimum 500 meter (1,640 feet) radius around the project site pursuant to the above survey methodology, unless otherwise approved in writing by CDFW. Any deviations from the survey methodology must be approved in writing by CDFW. If burrowing owl is detected, a Qualified Biologist shall immediately notify CDFW and establish suitable buffers to ensure burrowing owl is not disturbed by the project in accordance with the buffer distances specified in the above survey methodology, unless otherwise approved in writing by CDFW. To prevent encroachment, the established buffers shall be clearly marked by high visibility material.

- 2.29 Nesting Bird Surveys. If construction, grading, vegetation removal, or other project-related improvements are scheduled during the nesting season of protected raptors and migratory birds February 1 to August 31, a focused survey for active nests of such birds shall be conducted by a Qualified Biologist within 7 days prior to the beginning of project-related activities. The survey area shall be within a minimum of 500 feet from the project site. The results of the survey shall be sent to James Hansen, Environmental Scientist by email (James.Hansen@Wildlife.ca.gov) prior to the start of project activities, and uploaded to EPIMS. Refer to Notification Number EPIMS-SON-35682-R3 when submitting the survey to CDFW. If an active nest is found, Permittee shall consult with CDFW and appropriate action to comply with Fish and Game Code and the Migratory Bird Treaty Act of 1918. If a lapse in project-related work of 7 days or longer occurs, another focused survey and if required, consultation with CDFW and USFWS, shall be required before project work is reinitiated.
- 2.30 Breeding Bird Nest Take Prohibition. Permittee shall avoid active nests occurring near the project site. Permittee is responsible to comply with Fish and Game Code section 3503 et seq. and the Migratory Bird Treaty Act of 1918.
- 2.31 Active Nest Buffers. Active bird nest sites shall be designated as “Ecologically Sensitive Areas” (ESA) and protected (while occupied) during project work by demarking a “No Work Zone” buffer around each nest site.
- Buffer distances for bird nests shall be site specific and an appropriate distance, as determined by a Qualified Biologist. The buffer distances shall be specified to protect the bird’s normal behavior thereby preventing nesting failure or abandonment. The buffer distance recommendation shall be developed after field investigations that evaluate the bird(s) apparent distress in the presence of people or equipment at various distances. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, and flying away from the nest. The Qualified Biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established.
 - The Qualified Biologist shall monitor the behavior of the birds (adults and young, when present) at the nest site to ensure that they are not disturbed by project work. Nest monitoring shall continue during project work until the young have fully fledged (have completely left the nest site and are no longer being fed by the parents), as determined by the Qualified Biologist, unless otherwise approved in writing by CDFW.

- 2.32 Nesting Habitat Removal or Modification. No habitat removal or modification shall occur within the ESA-fenced nest zone until the young have fully fledged and will no longer be adversely affected by the project. Any trees or shrubs that are removed shall be “downed” in such a manner as to minimize disturbance to stable soil conditions.
- 2.33 Trenching. At the end of each workday all trenches and holes greater than one foot deep shall be covered to prevent wildlife from entering. When trenches cannot be fully covered, an escape ramp shall be placed at each end of any constructed open trench to allow any wildlife that may have become entrapped in the trench to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed at an angle no greater than 30 degrees.
- 2.34 Pipes, Hoses, and Similar Structures. All pipes, hoses, or similar structures less than 12 inches in diameter shall be closed or covered to prevent animal entry. All construction pipes or similar structures greater than 2 inches in diameter stored at the project site overnight shall be inspected thoroughly for wildlife before the pipe or similar structure is buried, capped, used, or moved.

Dredging Activities

- 2.35 Dredging Limit. Permittee shall not exceed 10,000-cubic yards or 2,500-linear feet per parcel in one year, for placement onto existing levees. Dredging volumes shall not to exceed 150,000 cy in any given year. If Permittee wishes to exceed these limits, Permittee shall first apply for, and receive, a final (signed) amendment to this Agreement or submit a new Notification, at the discretion of CDFW.
- 2.36 Dredging Equipment. Dredging shall be conducted via a mechanical (i.e., clamshell or dragline) dredger only. If Permittee wishes to do suction dredging, Permittee shall first apply for, and receive, a final (signed) amendment to this Agreement or submit a new Notification, at the discretion of CDFW.
- 2.37 Containment of Material in Dredge Bucket. The clamshell dredge bucket shall remain closed and the dragline bucket shall remain stable during hoisting and swinging in order to avoid spillage and leakage of material from the bucket.
- 2.38 Protect Banks and Vegetation. Care shall be taken during placement or movement of materials on the tidal slough banks to prevent any damage to stable tidal slough banks and to minimize damage to any streamside vegetation. Vegetation overhanging into the channel shall not be removed, trimmed, or otherwise modified.
- 2.39 Cleaning Equipment Prior to Entering Channel. All equipment that will be entering the water shall be cleaned of materials deleterious to aquatic life, including oil, grease, hydraulic fluid, soil, and other debris. Wash water containing mud or silt from washing or other operations shall not be allowed to enter the water.

- 2.40 Minimize Siltation. Permittee shall take precautions to minimize siltation during dredged material placement at an upland site. Precautions shall include but are not limited to: pre-construction planning to identify site-specific siltation minimization measures and best management erosion control practices during project activity. Precautions to minimize siltation may require the upland placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers during offloading of dredged material so that silt and/or other deleterious materials are not allowed to pass into the river. Materials composing the silt barrier shall not pose an entanglement risk to upland wildlife.
- 2.41 Allow Wildlife to Leave Unharmed. At upland sites, Permittee shall allow any wildlife encountered during the course of construction to leave the construction area unharmed. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the removed material. Captured aquatic life shall be released immediately in the closest body of water adjacent to the work site. This condition does not allow for the take or disturbance of any state or federally listed species, or state Species of Special Concern.

Vegetation Protection, Prevention, and Restoration

- 2.42 Habitat Protection. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the project. Vegetation outside the construction corridor shall not be removed or damaged without prior consultation and approval of a CDFW representative.
- 2.43 Vegetation Marked for Protection. Prior to project activities, the Permittee shall clearly mark all vegetation within the project area that shall be avoided during project activities.
- 2.44 Tree Drip Line. Construction materials, equipment storage, and parking areas shall be located outside the drip line of any preserved tree. Construction equipment shall not cause root compaction.
- 2.45 Tree Trimming and Removal. No live trees shall be removed as part of this project. If the removal of live trees is required, the Permittee must receive approval from CDFW in writing before construction activities begin.
- 2.46 Treat Exposed Areas. All exposed/disturbed areas and access points within the riparian zone left barren of vegetation as a result of the construction activities shall be restored by seeding with a blend of native erosion control grass seed. Seeded areas shall be mulched. Landscape fabric shall not be used. Revegetation shall be completed as soon as possible after construction activities in those areas cease. Seeding placed after October 15 must be covered with broadcast straw, jute netting, coconut fiber blanket or similar erosion control blanket.

- 2.47 Native Plant Materials Required. Revegetation shall include only local plant materials native to the project area, unless otherwise approved by CDFW in writing.
- 2.48 Prohibited Plant Species. Permittee shall not plant, seed or otherwise introduce invasive exotic plant species. Prohibited exotic plant species include those identified in the California Exotic Pest Plant Council's database, which is accessible at: www.cal-ipc.org/paf/.
- 2.49 Phytophthora. Permittee shall implement measures to avoid using plant stock that may be infected with the plant pathogen Phytophthora sp. Measures to avoid contamination with Phytophthora sp. may include, but are not limited to, avoiding collection of propagules from 1) known or likely infected areas; 2) during wet conditions; 3) when soil is muddy; or 4) from within 0.5 meters of the soil surface. Measures may also include implementing heat or chemical treatments to collected seeds prior to installation.
- 2.50 Control Invasive Species. Permittee is responsible for monitoring and if needed, eradication of invasive exotic species in riparian areas that may occur within the project area for a minimum of two years following construction. All revegetation efforts shall include local plant materials native to the project area.
- 2.51 Allowable Herbicide. If herbicide use is necessary, only herbicides registered with the California Department of Pesticide Regulation shall be used. All herbicides shall be applied in accordance with regulations set forth by the California Department of Pesticide Regulation and according to labeled instructions. Only herbicides approved for use in aquatic environments are permitted. Care shall be taken to avoid herbicide contact with native vegetation, and it shall only be applied on calm days (wind speed less than 5 miles per hour) to prevent airborne transfer of herbicide. No herbicides shall be used where threatened or endangered species occur, unless otherwise approved by in writing by CDFW.
- 2.52 Disposal of Vegetation and Debris. All removed vegetation and debris shall be moved outside the ordinary high-water mark prior to inundation by water. All removed vegetation and debris shall be disposed of according to state and local laws and ordinances.

Erosion and Sediment Control

- 2.53 Erosion control. At no time shall silt-laden runoff be allowed to enter a river, stream, or lake or directed to where it may enter a river, stream, or lake. Erosion control measures shall be utilized throughout all phases of operation where sediment runoff from exposed slopes threatens to enter a river, stream, or lake. Erosion control measures, such as, silt fences, straw hay bales, gravel or rock lined ditches, water check bars, and broadcasted straw shall be used wherever

sediment has the potential to leave the work site and enter the river, stream, or lake.

- 2.54 Monofilament. Permittee shall not use erosion control materials containing plastic monofilament netting (erosion control matting) or similar material containing netting within the project area due to documented evidence of amphibians and reptiles becoming entangled or trapped in such material. Acceptable substitutes include coconut coir matting or similar.
- 2.55 Erosion Control Monitoring. Permittee shall monitor erosion control measures during and after each storm event and repair and/or replace ineffective measures immediately.
- 2.56 Excavation. No spoil from the excavation shall be placed on the stream side. Excavated spoil shall be removed to an area where the sediment will not deliver to a watercourse.

Material Handling, Debris, and Waste

- 2.57 Stockpiled Materials. Building materials and/or construction equipment shall not be stockpiled or stored where they may be washed into the water or cover aquatic or riparian vegetation. Stockpiles shall be covered when measurable rain is forecasted.
- 2.58 No Dumping. Permittee and all contractors, subcontractors, and employees shall not dump any litter or construction debris within the stream, or where it may pass into the stream.
- 2.59 Pick Up Debris. Permittee shall pick up all debris and waste daily.
- 2.60 Wash water. 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.
- 2.61 Disposal and Removal of Materials. All removed spoils and construction debris shall be moved outside the work area prior to inundation by water. Spoil sites shall not be located within the stream channel or areas that may be subjected to stream flows, where spoil may be washed back into a stream, or where it may impact streambed habitat, aquatic or riparian vegetation. All removed material shall be disposed of according to State and local laws and ordinances.

Equipment and Vehicles

- 2.62 Operating Equipment and Vehicle Leaks. Any equipment operating adjacent to or within the water, or vehicles driven adjacent to the stream, shall be checked and maintained daily to prevent leaks of materials that could be deleterious to aquatic

and terrestrial life or riparian habitat. No equipment maintenance shall be done within or near the water where petroleum products or other pollutants from the equipment may enter the water. Fuel and other material stored on the barege shall be stored in a plastic tub to contain leaks or spills. Spill equipment such as booms, drip pans, and absorbent pads shall be on site and read to deploy in case of a spill.

- 2.63 Stationary Equipment Leaks. Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to the stream shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak.
- 2.64 Equipment Storage. Staging and storage areas for equipment, materials, fuels, lubricants, and solvents, shall be located outside of the stream channel and banks.
- 2.65 Refueling of Equipment. Refueling of construction equipment and vehicles may not occur within 175 feet of any water body, or anywhere that spilled fuel could drain to a water body. Tarps or similar material shall be placed underneath the construction equipment and vehicles, when refueling, to capture incidental spillage of fuels. Equipment and vehicles operating in the project area shall be checked and maintained daily to prevent leaks of fuels, lubricants, or other liquids.

Toxic and Hazardous Material

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

Spills and Emergencies

- 2.68 Spill Kits. Prior to entering the work site, all field personnel shall know the location of spill kits and trained in their appropriate use.
- 2.69 Spill of Material Deleterious to Fish and Wildlife. In the event of a hazardous materials spill into a stream (e.g., concrete or bentonite), Permittee shall immediately notify the California Office of Emergency Services State Warning Center by calling 1-800-852-7550 and immediately provide written notification to CDFW by email at R3LSA@wildlife.ca.gov. Permittee shall take all reasonable measures to document the extent of the impacts and affected areas including photographic documentation of affected areas, injured fish and wildlife. If dead fish

or wildlife are found in the affected area, Permittee shall collect carcasses and immediately deliver them to CDFW. Permittee shall meet with CDFW within ten days of the reported spill in order to develop a resolution including: site clean-up, site remediation and compensatory mitigation for the harm caused to fish, wildlife and the habitats on which they depend as a result of the spill. The Permittee shall be responsible for all spill clean-up, site remediation and compensatory mitigation costs. Spill of materials to waters of the state that are deleterious to fish and wildlife are in violation of Fish and Game Code section 5650 et. seq. and are subject to civil penalties for each person responsible. CDFW reserves the right to refer the matter to the District Attorney's Office if a resolution cannot be agreed upon and achieved within a specified timeframe, generally six months from the date of the incident.

- 2.70 Spill Containment. All activities performed in or near a river, stream, or lake shall have absorbent materials designated for spill containment and cleanup activities on-site for use in an accidental spill. The Permittee shall immediately notify the California Emergency Management Agency at 1-800-852-7550 and immediately initiate the cleanup activities. CDFW shall be notified by the Permittee and consulted regarding clean-up procedures.

3. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 3.1 Notification Prior to Work. As per Measure 1.5, at least 5 days prior to the start of Project activities, Permittee shall notify CDFW that work will commence.
- 3.2 Notification of Designated Representative. As per Measure 1.12, at least 5 days prior to the start of Project activities, Permittee shall submit to CDFW the name, business address, and contact information of the Designated Representative.
- 3.3 Biologist Approval. As per Measure 2.27, at least 30 days prior to commencement of project activities covered by this Agreement, the Permittee shall submit to CDFW, for review and approval, the qualifications for the biologist(s) that shall oversee the implementation of the conditions in this Agreement and conduct surveys or monitoring work.
- 3.4 Special-Status Plant Survey Results. Where required, survey results for special-status plants shall be submitted to CDFW prior to the start of work.
- 3.5 Burrowing Owl Survey Results. Where required, survey results for burrowing owl shall be submitted to CDFW prior to the start of work.
- 3.6 Nesting Bird Survey Reports. Where required, survey results for nesting birds shall be submitted to CDFW prior to the start of work.

3.7 Notification of Proposed Activities. The Permittee shall provide to CDFW Bay Delta Region written notification of proposed routine maintenance activities to be performed that year by **May 1** of each year. The written notification of proposed routine maintenance activities shall include:

- 1) Work plans describing the type and scope of work planned, including the volume and type of materials displaced, the equipment to be used; and type, density and area of vegetation to be affected.
- 2) The location of the covered activity, and the name, if any of the river or stream affected.
- 3) Directions to the work site including a map displaying the public and private roads used to access the work site.
- 4) Estimated area, acreage or square feet, estimated linear feet, and species of vegetation that will be removed or vegetation community that will be treated.
- 5) Proposed avoidance, minimization, and mitigation measures from this Agreement for each activity.
- 6) The earliest commencement date, estimated termination date, and proposed hours of operation.
- 7) Plan-view maps showing site attributes before and after completion of the covered activity. The maps shall also delineate the location of permanent and temporary storage areas for equipment, materials, spoils; and any important fish or wildlife habitat features (e.g. snags and nests in the terrestrial environment; large woody debris (LWD), deep pools, and undercut banks in the aquatic environment) in the area of disturbance.
- 8) Pre-project photographs of each covered activity including important fish and wildlife habitat features.
- 9) Total proposed annual cubic yards of dredged materials per linear-foot of levee, not to exceed 10,000-cubic yards (cy) or 2,500-linear feet per parcel in one year, for placement onto existing levees.
- 10) Total proposed annual dredging volumes, not to exceed 150,000 cy in any given year.

3.8 Notification and Fees for Completed Work. The Permittee shall provide CDFW Bay Delta Region written notification of maintenance work completed each year. Each notification shall include the number of projects completed and the appropriate fee determined from the CDFW Streambed Alteration Agreement Fee Schedule for work completed under this Agreement based on the number of activities completed in the reporting period. For fee purposes, a “project” is defined as a routine maintenance activity performed by the Sonoma RCD during a given year in an identified specific area as described in Table 1 above. Each annual activity shall be considered to be one project. Permittee shall pay fees either in the form of a check mailed to CDFW’s Bay Delta Region office (i.e., 2825 Cordelia Road, Suite 100, Fairfield, CA 94534), or online with credit card (<https://www.ca.wildlifelicense.com/InternetSales/>). If fees are paid online, a copy of the receipt shall be emailed to CDFW. Notifications and annual fees are due by

December 31. CDFW may terminate this Agreement if notifications and fees are not submitted on time.

3.9 Annual Work and Compliance Reports. The Permittee shall provide to CDFW Bay Delta Region written annual work and compliance reports for work completed each year. Annual reports are due by **March 15**. Annual reports shall be clearly organized by activity and include:

- Project name
- Streambed Alteration Agreement number
- Project activity location
- Project activity description
- Estimated area, acreage or square feet, linear feet, and species of vegetation removed, or vegetation community treated or maintained, including area of temporary impacts
- All completed avoidance, minimization, and mitigation measures required in this Agreement
- Fish and wildlife resources observed during the Project activity.
- Total annual cubic yards of dredged materials per linear-foot of levee for each parcel.
- Total annual dredged volumes.
- Pre and post photographs
- Status of work
- Discussion of any spills, releases, or unanticipated problems
- Fee associated with each project

3.10 Photographic Documentation of Work. Prior to commencement of work a minimum of four (4) vantage points that offer representative views of the project site and work areas shall be identified. The Permittee shall photograph the project area from each of the vantage points, noting the direction and magnification of each photo. Upon completion of work, the Permittee shall photograph post-project conditions from the vantage points using the same direction and magnification as pre-project photos. A reference key shall be submitted with the photos describing the location of the photo, the direction of the view, and whether the photo is pre- or post-construction. All photos shall be submitted within 30 days of project conclusion.

3.11 Notification to the California Natural Diversity Database. If any listed, rare, or special status species are detected during project surveys or on or around the project site during project activities, the Permittee shall submit CNDDDB Field Survey Forms to CDFW in the manner described at the CNDDDB website (<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>) within five working days of the sightings. Copies of such submittals shall also be submitted to the CDFW regional office as specified below.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be submitted through Environmental Permit Information Management System (EPIMS) as instructed by CDFW.

To Permittee:

Che Casul
Sonoma RCD
EPIMS-SON-35682-R3
Sonoma RCD District Levee Maintenance Program
1221 Farmers Lane, Suite F
ccasul@sonomarc.org

To CDFW:

Department of Fish and Wildlife
Bay Delta Region
EPIMS-SON-35682-R3
Sonoma RCD District Levee Maintenance Program
R3LSA@wildlife.ca.gov; James.Hansen@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 use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall include with the completed form, payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

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

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall include with the completed form, payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

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 use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall 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)).

EFFECTIVE DATE

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

TERM

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

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

Through the electronic signature by the permittee or permittee's representative as evidenced by the attached concurrence from CDFW's EPIMS, the permittee accepts and agrees to comply with all provisions contained herein.

The EPIMS concurrence page containing electronic signatures must be attached to this agreement to be valid.

ATTACHMENT A COVERED ACTIVITIES

1) Levee Maintenance:

- a. Mechanical dredging of sediment from adjacent waterways to reinforce levee structures.
 - i. Dredging of up to four cubic yards (cy) of material per linear-foot of levee, not to exceed 10,000-cubic yards or 2,500-linear feet per parcel in one year, for placement onto existing levees.
 - ii. Dredging volumes shall not exceed 150,000 cy in any given year.
 - iii. Mechanical dredging will be completed using long-reach excavators or drag lines working from the top of existing levees, and dredged material will be excavated on the outboard side of the levee at the extreme reach of the available equipment to avoid damage to the levee toe. Dredging will not occur within 10 feet of the toe of the levee. Dredged material will be placed on the levee crown and mechanically compressed.

2) Exempt Activities

The following routine maintenance activities are not subject to the provisions of the Routine Maintenance Agreement between CDFW and the Permittee. This activity is also not subject to the provisions of Section 1600 of the Fish and Game Code if performed within the parameters stated below.

- a. Trash and debris removal (not including silt removal) when conducted without heavy equipment being operated within the bed, bank, and channel (e.g., garbage bags, shopping carts, metal, wood, plastic, etc.)
- b. Removal of trash and vegetation from trash racks when conducted without heavy equipment being operated within the bed, bank, and channel. For example, vegetation that has flowed down the channel and collected on the trash rack, pilings, or piers and would impede channel flow leading to potential flooding upstream.

Note: Materials embedded in the bottom of the channel are subject to the provisions of Fish and Game Code section 1600 et seq.

ATTACHMENT B DEFINITION OF TERMS

As used herein and for purposes of the Agreement

Debris: non-living vegetative or woody matter, trash, concrete rubble, etc. This definition does not include living vegetation.

Fish: as defined in Fish and Game Code section 45, means a wild fish, mollusk, crustacean, invertebrate, amphibian, or part, spawn, or ovum of any of those animals.

Heavy equipment: any equipment used that is larger than a pick-up truck, including but not limited to, rubber tired backhoes/loaders, rubber tired skip loaders, rubber tracked or tired bobcat loaders, rubber tired flail mowers, drag lines with buckets, hydro-vacuum machines operated from top-of-bank.

Project: a routine maintenance activity performed by the Permittee during a given year and assigned the individual fee identified in CDFW's Lake and Streambed Alteration fee schedule (Cal. Code Regs., tit. 14, § 699.5, subd. (e)(2)(B)). An example of such a project, as listed in Attachment A, is one that is limited to the removal of sediment and placement on a levee at one location along the bank of a river, lake, or stream as established in this Agreement. A project does not include minor debris removal such as minor tree trimming, removing a shopping cart or a bag of garbage.

Routine maintenance activity: an activity, that is periodically scheduled and implemented as necessary to maintain the water transport capacity of stream channels and maintain the structural and functional integrity of existing levees.

Special-status species: any species identified as a candidate, threatened, endangered, or sensitive species in local or regional plans, policies or regulations, or by CDFW, the USFWS, or NMFS. This includes California Species of Special Concern, Fully Protected Species, and species that are locally rare. Plants with a California Rare Plant Rank are also considered special-status species for the purposes of this Agreement.

Structure: storm drain outfalls, tide gates, slide gates, culverts, revetments, energy dissipaters, bank protection, sediment basins, weirs, diversion structures, trash racks, stream gages, fish ladders, fish screens, utility line crossings, bridge piers, bridge abutments, or grade structures.

Take: as defined in Section 86 of the California Fish and Game Code, means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill. Take, as defined in title 16 of U.S. Code section 1532 subsection 19, means harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt any of those activities.

Vegetation community: a description of the plant species that co-exist in a shared environment; communities should be described at the alliance level per the Manual of California Vegetation (available at <https://vegetation.cnps.org/>).