

## Notice of Determination

TO: ☒ Office of Planning and Research

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

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

FROM: Department of Fish and Wildlife  
Northern Region  
601 Locust Street  
Redding, California 96001  
Contact: Danielle Castle  
Phone: (707) 964-1789

LEAD AGENCY (if different from above):  
Department of Forestry and Fire Protection  
135 Ridgway Avenue  
Santa Rosa, California 95401  
Contact: Dominik Schwab  
Phone: (707) 576-2953

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

State Clearinghouse Number (if submitted to State Clearinghouse):

2019049097

Project Title: Lake or Streambed Alteration Agreement No. 1600-2018-0798-R1 for THP 1-18-00171  
MEN "Olds THP."

Project Location: The project is located approximately 6 air miles west of Willits in Mendocino County, Noyo River. The project is located in Section(s) 11, 12, 14 Township 18N, Range 15W; Mt. Diablo Base and Meridian, in the Burbeck and U.S. Geological Survey 7.5-minute quadrangle.

Project Description: The Department of Fish and Wildlife (CDFW) is issuing an agreement to draft water from ponds and gravity fed tank.

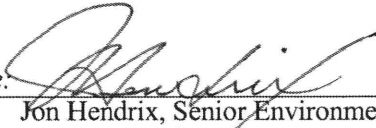
This is to advise that CDFW, acting as ☐ the Lead Agency / ☒ a Responsible Agency approved the above-described project and has made the following determinations:

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 the California Environmental Quality Act (CEQA).
3. Mitigation measures ☒ were / ☐ were not made a condition of CDFW's approval of the project.
4. A Statement of Overriding Considerations ☐ was / ☒ was not adopted by CDFW for this project.
5. Findings ☐ were / ☒ were not made by CDFW pursuant to Public Resources Code § 21081(a). CDFW adopted findings to document its compliance with CEQA.
6. Compliance with the environmental filing fee requirement of Fish and Game Code § 711.4 (check one):

- ☐ Payment is submitted with this notice.
- ☒ Payment is not required due to provisions of Public Resources Code §4629.6 (c).
- ☐ 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 Environmental Impact Report (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/NTMP 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 Eureka CDFW office located at 619 Second Street, Eureka, California, 95501.

Signature: 

Jon Hendrix, Senior Environmental Scientist (Supervisory)  
Northern Region, Department of Fish and Wildlife

Date:

APR 12 2019

Governor's Office of Planning & Research

APR 15 2019

STATE CLEARINGHOUSE

Date Received for filing at OPR:

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS FOR  
LAKE OR STREAMBED ALTERATION AGREEMENT No. 1600-2018-0798-R1**

**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 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.

Timber Harvesting Plans (THPs) and Nonindustrial Timber Management Plans (NTMPs) are documents prepared according to a certified state regulatory program and they substitute for a Negative Declaration or an Environmental Impact Report, pursuant to Guidelines sections 15251 and 15252. As the Lead Agency for THPs and NTMPs, the California Department of Forestry and Fire Protection (CAL FIRE) approved THP 1-18-00171 MEN on March 25, 2019. CAL FIRE found that the THP will not result in significant environmental effects with the mitigation measures required in, or incorporated into the THP.

The California Department of Fish and Wildlife (CDFW) is entering into a lake or streambed alteration agreement (Agreement) with William Morrison. The activities to be completed according to the Agreement are located approximately 6 air miles west of Willits in Mendocino County on Noyo River. The project is located in Section(s) 11, 12, 14, Township 18N, Range 15W Mt. Diablo Base and Meridian, in the Burbeck and U.S. Geological Survey 7.5-minute quadrangle(s).

Because CDFW is issuing the Agreement, it is a Responsible Agency under CEQA. As a CEQA-Responsible Agency, CDFW is required by Guidelines Section 15096 to review a THP or NTMP approved by the Lead Agency that includes the activities addressed in the Agreement and to make a finding that the Agreement's activities will not 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 activities addressed in a THP or NTMP.

**Findings**

CDFW has considered the THP approved by CAL FIRE that is named above. 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 CAL FIRE as set forth in the THP insofar as they pertain to the impacts on biological resources from the activities addressed in the Agreement.

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

Date: **APR 12 2019**

Jon Hendrix, Senior Environmental Scientist (Supervisory)  
Northern Region, California Department of Fish and Wildlife

California Department of Fish and Wildlife  
Northern Region  
619 Second Street  
Eureka, CA 95501



Streambed Alteration Agreement  
Notification No. 1600-2018-0798-R1  
Noyo River  
Mendocino County

3 Encroachments

Mr. William Morrison, representing Soper Wheeler Company, LLC  
THP 1-18-00171 MEN; "Olds THP"

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Soper Wheeler Company, LLC (Permittee), as represented by Mr. William Morrison.

#### RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified CDFW on 43447 that Permittee intends to complete the project described herein.

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

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

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

#### PROJECT LOCATION

The activities to be completed according to the Agreement are located approximately 6 air miles west of Willits in Mendocino County on Noyo River. The project is located in Section(s) 11, 12, 14 Township 18N, Range 15W; Mt. Diablo Base and Meridian, in the Burbeck, U.S. Geological Survey 7.5-minute quadrangle(s).

#### PROJECT DESCRIPTION

The THP proposes to draft water from two pond sites and from a Class II watercourse at a gravity fed tank location (see table 1 for encroachment description).

Governor's Office of Planning & Research

APR 15 2019

STATE CLEARINGHOUSE

Table 1: Lake and Streambed Alteration Agreement 1600-2018-0798-R1 encroachment details for 1-18-00171 MEN "Olds THP"

Map Point	Watercourse classification	New/Existing	Encroachment description
Site 1	Class II	Existing	Water drafting – Gravity -fed tank
Site A	POND	Existing	Water drafting – Truck
Site 1 B	POND	Existing	Water drafting - Truck

## PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: coho salmon (*Oncorhynchus kisutch*) Chinook salmon (*O. tshawytscha*), steelhead (*O. mykiss*), other fish, amphibians, reptiles, aquatic invertebrates, mammals, birds, and plants.

The adverse effects the project could have on the fish or wildlife resources identified above include: direct and/or incidental take, impede up- and/or down-stream migration of aquatic species, damage to spawning and/or rearing habitats and potential cumulative impacts.

## 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, and any extensions and amendments to the Agreement, 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 Minor Language Changes. CDFW reserves the right to authorize minor language revisions to this Agreement provided both CDFW and the Responsible Party concur with minor language changes and both initial and date changes on the respective documents belonging to both the Responsible Party and CDFW.
  - 1.5 Project Site Entry. Permittee agrees that CDFW personnel may enter the project site at any time to verify compliance with the Agreement.
  - 1.6 Notice of Beginning Work. The Permittee shall contact CDFW within the 7-day period preceding the beginning of work permitted by this Agreement. Information to be disclosed shall include Agreement number, Timber Harvesting Plan (THP) number, and the anticipated start date.

- 1.7 Notice of Work Completion. The Permittee shall contact CDFW within thirty days of completion of the work permitted by this Agreement. Information to be disclosed shall include Agreement number and THP number.
- 1.8 Amendment of Agreement into THP. Before any work covered by this Agreement is undertaken, this Agreement shall be amended into and made enforceable as part of the THP.
- 1.9 Regional Water Quality Control Board (RWQCB) Reports: All RWQCB reports, relating to sites permitted under this LSA, shall be sent to CDFW via email at the time they are submitted to the RWQCB. This includes annual work plans, erosion control point summaries and discharge notifications.
- 1.10 Emergency Road work: 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. If heavy equipment is used, please notify CDFW within 14 days after completing activity using the emergency work form (<https://www.wildlife.ca.gov/Conservation/LSA/Forms>).
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 Except where otherwise stipulated in this Agreement, all work shall be in accordance with the project description submitted with Notification No. 1600-2018-0798-R1 and THP 1-18-00171 MEN, as revised as of 2/15/2019.
  - 2.2 Timing for Work on Class I, II and III Watercourses: The permittee shall conduct the following work only during periods between June 1 and October 15: vegetation removal; bank stabilization; and maintenance, replacement, installation and removal of watercourse crossings. Temporary crossings installed during this time shall be removed prior to October 15. Late season work (October 16-November 15) and early season work (May 1-June 1) may be conducted in Class III watercourses if the channel is dry, provided adherence to all conditions in this Agreement and measures a-f below:
    - a) The Permittee shall complete any unfinished encroachment work, including erosion control measures, within 24 hours of CDFW directing the Permittee to do so.
    - b) Prior to any work at a site, the Permittee shall stock-pile erosion control materials at the site. 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 2 to 4 inches straw mulch with greater than 90% coverage and, if seed is used, seeding shall be at a rate of 100 lbs/acre equivalent barley seed. Annual (Italian) ryegrass (*Festuca perennis*) shall not be used.
    - c) 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.

- d) 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.
- e) All crossing installation or removal work at a given site shall be conducted in one day. If equipment breakdowns prevent completion of installation or removal in one day, work shall be completed in the shortest period feasible.
- f) When a 7-day National Weather Service forecast of rain includes a minimum of 5 consecutive days with any chance of precipitation, 3 consecutive days with a 30% or greater chance of precipitation, or 2 consecutive days of 50% or greater chance of precipitation, the Permittee shall finish work underway at encroachment and refrain from starting any new work at encroachment prior to the rain event.

#### GENERAL CONDITIONS FOR ALL ENCROACHMENTS

- 2.3 Fill material, native or otherwise, shall not be placed within a stream except as specified in this Agreement. Any fill material used in the stream shall be placed and/or removed in such a manner that it shall not discharge sediment or cause siltation in the stream.
- 2.4 All heavy equipment that will be entering the 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.
- 2.5 Adequate and effective erosion and siltation control measures shall be used to prevent sediment or turbid or silt-laden water from entering streams. Where needed, the Permittee shall use native vegetation or other treatments including jute netting, straw wattles, and geotextiles to protect and stabilize soils. Geotextiles, fiber rolls, and other erosion control treatments shall not contain plastic mesh netting.
- 2.6 All bare mineral soil outside of the stream channel exposed in conjunction with drafting 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. Treatment shall include the seeding and mulching of all bare mineral soil with at least 2 inches straw mulch and native plants or regionally appropriate seeds, or 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. Annual (Italian) ryegrass (*Festuca perennis*) shall not be used.
- 2.7 Encroachments and associated approaches, structures, fills, and other exposed soils shall be armored as needed to protect 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.
- 2.8 Encroachments shall be constructed, deconstructed, 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.

- 2.9 Road approaches to all encroachments shall be treated to eliminate the generation and transport of sediment to streams. Treatment locations shall include, but not be limited to, road surfaces, fill faces, cut banks, and road drainage ditches. 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.
- 2.10 Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. Any trees felled in encroachment road approaches pursuant to this condition shall be left on site as large wood.
- 2.11 The Permittee shall provide site maintenance including, but not limited to, re-applying erosion control to minimize surface erosion and ensure streambeds and banks remain sufficiently armored and/or stable at the encroachment.
- 2.12 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.
- 2.13 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.
- 2.14 Debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any logging, construction, or associated activity of whatever nature shall not be allowed to enter into or be 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. Rubbish shall not be deposited within 150 feet of the high water mark of any stream.

#### CONDITIONS for WATER DRAFTING

Table 2. Class I watercourse and Class II watercourse when foothill yellow-legged frog are known (or presumed) to be present requirements: maximum allowable water drafting rates.

Unimpeded flow in cfs (gpm)	Requirement			Range of estimated rate (gpm)	Estimated time to draft 3,500 gallons (minutes)
	Removal Rate (% of unimpeded flow)	Compliance Flow and Temperature Measurement <sup>a, b</sup>	Drafting Logs		
>7.8 (3505)	<10%	As necessary	No	350	10
> 6 to 7.8 (2691 – 3505)	<10%	Biweekly <sup>c</sup>	No	270 - 350	13
>2.0 to 6 (987 –	<10%	Biweekly	Yes	100 – 270	35

2691)					
>2.0 (897)	DRAFTING PROHIBITED (Unless site specific exception in this Agreement or approved by CDFW Amendment –see 2.37)	Continuous flow and temperature data as required for site and/or season specific exception for CDFW approval	Yes	To be determined on a site specific basis	To be determined on a site specific basis

<sup>a</sup> Flow must be measured within one week prior to a drafting site's initial use each season.

<sup>b</sup> The time lapse between measurements shall not be any longer than the stated value.

<sup>c</sup> "Biweekly" means every two weeks.

- 2.15 SOPER shall consult with the CDFW, and amend this Agreement to include mutually agreed upon site-specific monitoring and/or drafting conditions prior to any drafting operations when source flows drop below 2.0 cfs. Water drafting shall not occur if CDFW does not approve drafting activities given site conditions at the specific location(s).

Water drafting shall not commence when source flows are below 2 cfs until SOPER receives written approval indicating that the Agreement shall be amended. Any amendment to this Agreement shall be submitted to CAL FIRE as an amendment to the THP.

- 2.16 Procedures for Class II Watercourse water drafting where foothill yellow-legged frog are determined not to be present during water drafting.

In addition to the General Water Drafting Procedures, the following apply to water drafting from within Class II waters.

- a) Drafting for gravity-fed storage containers shall conform to the following:
  - i. Intakes shall be designed (e.g., valves) to prevent diversion > 25% of surface flow;
  - ii. If water returning to the source stream from water storage tanks is more than 3° F warmer than water in the stream at the point of return, water storage tanks shall be modified to preclude excess water from leaving the tank while it is full;
  - iii. If water in the source stream at the point of diversion is >72 °F, drafting shall be prohibited from the site until water temperature falls below this limit.
- b) Water drafting from flowing Class II watercourses shall adhere to all requirements in Table 3.



Table 3. Class II watercourse when foothill yellow-legged frog are determined not to be present requirements: maximum allowable water drafting rates.

Source flow in cubic feet per second (gpm)	Requirement		Approximate Time to draft 3,500 gallons (minutes)	Range of diversion flows (gpm)
	Maximum Diversion Rate (% of source flow)	Compliance flow measurement frequency		
> 2.0 (898)	25	Biweekly <sup>a</sup>	18	220
> 1.0 - 2.0 (449 - 898)	25	Biweekly <sup>a</sup>	35	110-220
> 0.5 - 1.0 (224 - 449)	25	Biweekly <sup>a</sup>	70	55-110
> 0.25 - 0.5 (112 - 224)	25	Biweekly <sup>a</sup>	140	28-55
> 0.1 - 0.25 (45 - 112)	25	Biweekly <sup>a</sup>	350	11-28
> 0.05 - 0.1 (22 - 45)	25	Weekly	700	5-11
> 0.025 - 0.05 (11 - 22)	25	Weekly	1420	2.5-5
>0.01-0.025 (>4.5-11)	25	Weekly	3550	1-2.5
< 0.01 (4.5)	WATER DRAFTING PROHIBITED	Not required	Not applicable	Not applicable

<sup>a</sup> "Biweekly" means every two weeks.

- i. All water drafting from Class II watercourses shall cease when source flow drops to 0.01 cfs (4.5 gpm).
- ii. If the rate of change in source flow between two subsequent biweekly measurements indicates that source flow will drop below 0.1 cfs (45 gpm) before the next scheduled biweekly measurement, the frequency of measure shall be increased to weekly.
- iii. Frequency will be weekly if the rate of change between two biweekly measurements indicates the flow will be less than 0.1 cfs prior to the next

scheduled biweekly measure.

- c) Where source flow in the watercourse is intermittent or discontinuous (i.e., there is no apparent flow to measure at or near the drafting site),
  - i. Direct drafting shall not reduce pool depth by more than 10% of the maximum depth of the pre-drafting pool, as measured immediately prior to and after drafting.
  - ii. Intakes for gravity feed systems shall be physically fixed in place such that they cannot reduce the residual pool depth by more than 15%.
  - iii. At least once per week if the site is in use, SOPER shall assure the conditions are met during withdrawal, or the intake is functioning as designed. If use is less frequent than once per week, SOPER shall monitor pool depth or intake structure at each drafting event.
- d) For sites actively used for drafting via gravity flow into a tank or other storage facility, SOPER shall evaluate and document in a log book at the frequency stated in Table 3 the condition of the diversion intake and the following parameters:
  - i. Source flow and temperature immediately upstream of diversion influence;
  - ii. Diversion flow (either by direct methods where it enters the tank or indirectly by subtracting a flow measurement immediately downstream from that taken above the diversion);
  - iii. Diversion rate; and adjustments to that rate (e.g., a valve) as needed to meet the requirements Table 3; and
  - iv. Temperature of any water overflow from the storage tank.
  - v. SOPER shall make the log book available to CDFW following the drafting period.
- e) Bypass flows from blocked culverts shall be from the bottom of the pool, achieved by installing boards above the floor of the culvert or through holes cut near the bottom of the boards.
- f) In addition, intakes to diversion and bypasses for gravity diversions shall be maintained functional, shall be screened with openings not to exceed 1/8 inch diagonally (slotted or square openings) or 3/32 inch diameter (round openings).

## 2.17 Procedures for Class I and Class II Ponds

In addition to the General Water Drafting Procedures, the following shall apply to water drafting from Class I and Class II ponds.

- a) Screening appropriate for the Class of waters affected shall be applied to intakes as described above.
- b) Diversion flows shall not exceed 350 gpm.
- c) Drafting from Class I ponds shall not reduce maximum pool width or depth by more than 10%, whichever occurs first.
- d) Drafting from Class II ponds hydrologically connected to watercourses (including subsurface flow) shall not reduce residual pool maximum width or depth by more than

50%.

- e) Relative to the pond's dimensions at the end of the winter period (April 1), drafting from hydrologically isolated Class II ponds shall not reduce either the maximum pool width or depth, whichever occurs first by more than 50% prior to July 1 or 80% on or after July 1.
  - f) Benchmarks shall be placed in the pond to identify the draw-down thresholds as specified in §c), §d), and §e) (10%, 50%, and 80%) for the purpose of signifying to the pump truck operator and inspectors to terminate water diversions. Benchmarks shall be maintained as necessary while actively drafting.
  - g) Pond bottoms and bank excavation/enlargement activities shall occur only after July 1.
  - h) At each documented red-legged frog breeding site:
    - i. Water shall not be drafted when red-legged frog egg masses are present.
    - ii. Vegetation management shall be limited to
      - A. No more than 50% of the pond's perimeter.
      - B. After July 1 within any calendar year, and
      - C. No more frequently than once every three years.
- 2.18 At the end of drafting operations each season, intakes shall be removed from the channel and flood prone area. Intakes shall then be plugged, capped, or otherwise blocked using a shut-off valve during the winter period.
- 2.19 If CDFW determines water drafting from a site is, or may result in, significant adverse impacts to sensitive resources, drafting operations shall cease until a site-specific plan to reduce the impacts is developed and this Agreement is amended to include these measures.
- 2.20 Each calendar year, every active drafting site shall have a temperature and source flow measurement taken within the 7 days preceding the first drafting activity at each site. Information from this measurement (i.e., date of measurement, time, drafting site location, Agreement No., stream temperature and flow data), shall be provided to CDFW by email with MEN included in the subject line ([CTP@wildlife.ca.gov](mailto:CTP@wildlife.ca.gov)) or by phone (707) 445-5902 or by fax (707) 441-2021 prior to beginning drafting.

## CONTACTS

For the purpose of contacting CDFW as specified in this agreement, the permittee shall send an email with MEN included in the subject line to [CTP@wildlife.ca.gov](mailto:CTP@wildlife.ca.gov) and may contact any CDFW Coastal Timber Conservation Planning staff by email using the address protocol [firstname.lastname@wildlife.ca.gov](mailto:firstname.lastname@wildlife.ca.gov) or phone.

## 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 obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

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

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

## AMENDMENT

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.

## 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.

#### EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form. CDFW shall process the extension request in accordance with FGC 1605(b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification.

#### EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after Permittee's signature; and 2) after CDFW complies with all applicable requirements under CEQA.

#### TERM

This Agreement shall expire five years after the date upon which it becomes effective, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

#### EXHIBITS

Exhibits are not included.

#### AUTHORITY

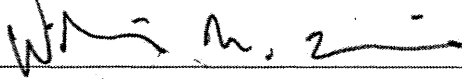
If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

#### AUTHORIZATION

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

CONCURRENCE

FOR SOPER WHEELER COMPANY, LLC

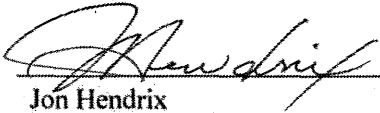


William Morrison

3/12/19

Date

FOR CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE



Jon Hendrix

Senior Environmental Scientist (Supervisory)  
California Department of Fish and Wildlife

APR 12 2019

Date

Prepared by: Danielle Castle  
Environmental Scientist  
March 11, 2019