

FOR CONTRACT NO.: 09-349104

INFORMATION HANDOUT

AGREEMENTS

CALIFORNIA DEPARTMENT OF FISH AND GAME

NOTIFICATION NO. 1600-2005-0122-R6

ROUTE: Ker-14, 58-Var



California Natural Resources Agency
 DEPARTMENT OF FISH AND GAME
 Inland Deserts Region (IDR)
 407 West Line Street
 Bishop, CA 93514
 (760) 872-1171
 (760) 872-1284 FAX www.dfg.ca.gov

ARNOLD SCHWARZENEGGER, Governor
 JOHN McCAMMAN, Director



June 3, 2010

Mr. Mark Heckman
 California Department of Transportation
 500 South Main Street
 Bishop, CA 93514

Subject: Extension of Lake or Streambed Alteration Agreement
 Notification No. 1600-2005-0122-R6

CALTRANS DIST 9
 210 JUN -9 PM 12:32

Dear Mr. Heckman:

The Department of Fish and Game (Department) received your request to extend Lake or Streambed Alteration Agreement (Agreement) and extension fee, for the above referenced agreement. The Department hereby grants your request to extend the Agreement from June 30, 2010 to June 30, 2015. All other conditions in the original Agreement remain in effect. The extension for the above referenced agreement is a one time extension. The agreement shall fully expire on June 30, 2015. To continue routine maintenance projects on culverts throughout Inyo and Mono Counties in future years, the Department recommends that you apply for a Long-term Routine Maintenance Agreement well in advance of the expiration date.

Copies of the original Agreement and this letter must be readily available at project worksites and must be presented when requested by a Department representative or other agency with inspection authority.

If you have any questions regarding this matter, please contact Tammy Branston, Environmental Scientist, at (760) 872-0751 or tbranston@dfg.ca.gov.

Sincerely,

Brad Henderson
 Assistant Deputy Regional Manager

DEPARTMENT OF FISH AND GAME

http://www.dfg.ca.gov
Eastern Sierra-Inland Deserts Region
407 East Line Street
Bishop, California 93514
Phone (760) 872-1171
Fax (760) 872-1284

2005 JUL 18 AM 8:08
CALIFORNIA DISTRICT 9

Notification No. 1600-2005-0122-R6

June 28, 2005

AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the **Department**, and Mr. Mark Heckman, California Department of Transportation, 500 S. Main Street, Bishop, California, 93514, Phone (760) 872-0734, State of California, here after called the **Operator**, is as follows:

WHEREAS, pursuant to Section 1602 of the California Fish and Game Code, the Operator, on the 24th day of February, 2005, notified the Department that they intend to divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from the streambed(s) of the following water(s): Various dry streambeds, channels, washes and banks within Inyo and Mono Counties within the immediate vicinity of man-made facilities or structures.

WHEREAS, the Department (represented by Dawne Becker) has determined that such construction may substantially adversely affect those existing fish and wildlife resources within the various dry streambeds, channels, washes, and banks referenced above in paragraph 2 of this page, including songbirds, raptors, other birds, reptiles, mammals, amphibians, plants and all other fish and wildlife resources, including that riparian vegetation which provides habitat for such species, in the area.

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

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

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

This Agreement becomes **effective the date of Department's signature and terminates on July 1, 2010** for construction of the proposed project only. This Agreement shall remain in effect for that time necessary to satisfy the terms/conditions of this Agreement. Any provisions of the agreement may be amended at any time provided such amendment is agreed to in writing by both parties. Mutually approved amendments become part of the original agreement and are subject to all previously negotiated provisions. The Operator may request an extension of the agreement annually for a 12-month period if additional construction time is necessary. The extension shall be requested prior to the termination date of the agreement.

1. The following provisions constitute the limit of activities agreed to and resolved by this Agreement. The

STREAMBED ALTERATION AGREEMENT FOR NOTIFICATION NUMBER: 1600-2005-0122-R6
June 28, 2005

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

Project/Site Description

2. Perform channel maintenance activities in dry conditions to facilitate eventual stream flow. Routine maintenance would include removing sediments, vegetation, debris or trash from dry culverts, drop inlets, and/or dry inlet and outlet ditches. Replacement of failing or undersized culverts during no flow conditions is also permitted. The maintenance may be performed with either hand tools within the channel or equipment operated from the top of the bank. Work within the channel shall not exceed more than 100 feet upstream or downstream from the centerline of the facility.
3. The Operator shall not impact more than 100 linear feet of Departmental jurisdictional waters per site. If impacts to drainages and riparian habitat exceed that authorized in Condition 2 of the Agreement, the Operator shall mitigate at a minimum 5:1 replacement-to-impact ratio for the impacts beyond those previously authorized by this Agreement. All mitigation shall be approved by the Department.
4. If mitigation is necessary, the Department recommends the use of native plants to the greatest extent feasible in the landscaped areas adjacent and/or near the mitigation/open space areas and within or adjacent to stream channels. The Operator shall not plant, seed or otherwise introduce invasive exotic plant species to the landscaped areas adjacent and/or near the mitigation/open space areas and within or adjacent to stream channels (minimum 100 foot setback from open space areas and 150 foot setback from stream channels and riparian mitigation sites). Invasive exotic plant species not to be used include those species listed on Lists A & B of the California Exotic Pest Plant Council's list of "Exotic Pest Plants of Greatest Ecological Concern in California as of October 1999." A copy of the list can be obtained by contacting the California Exotic Pest Plant Council at 32912 Calle del Tesoro San Juan Capistrano, CA 92675. The Operator shall submit a copy of the draft landscape/planting plan to the Department's representative for review at least 30 days prior to the acquisition and/or use of any plant materials (seeds or container plants) adjacent to the mitigation/open space site and/or within or adjacent to any stream channel. All accessible tamarisk (*Tamarix ramosissima*) commonly referred to as saltcedar, *Eleaagnus angustifolia* commonly referred to as Russian olive and giant reed (*Arundo donax*) commonly referred to as arundo or false bamboo, shall be properly removed and disposed of within the limits of this Agreement.
5. A. No more than 15 days prior to ground disturbing activities, the Operator shall have a qualified, permitted biologist conduct focused surveys for burrowing owls within and adjacent to the project site (within 300 feet of the project site) to locate burrowing owls. Surveys shall follow the 1993 Burrowing Owl Consortium protocol guidelines.

B. If burrowing owls are found adjacent to the project site (within 300 feet of the project site), no project activities shall occur within 300 feet of occupied burrows during the breeding season (February 1 through August 31) to avoid indirect impacts to burrowing owls within areas adjacent to the site.

Project Construction

6. Maintenance activities may be performed at anytime providing the Operator uses best management practices. If work needs to occur from March 15 through September 15, the Applicant shall have a

STREAMBED ALTERATION AGREEMENT FOR NOTIFICATION NUMBER: 1600-2005-0122-R6

June 28, 2005

qualified biologist survey all potential nesting vegetation within the project site for nesting birds, prior to project activities (including construction and/or site preparation). Surveys shall be conducted once a week for eight consecutive weeks, at the appropriate time of day during the breeding season, and surveys shall end no more than three days prior to clearing. Documentation of surveys and findings, shall be submitted to the Department for review and concurrence prior to conducting project activities. If no nesting birds were observed and concurrence was received from the Department, project activities may begin. If an active bird nest is located, the nest site shall be fenced a minimum of 200 feet (500 feet for raptors) in all directions, and this area shall not be disturbed until after September 15 and until the nest becomes inactive. If threatened or endangered species are observed in the area, no work shall occur during the breeding season (March 15 through September 15) to avoid direct or indirect (noise) take of listed species and State and/or Federal threatened/endangered species permits shall be obtained prior to commencing project activities.

7. If rare, threatened or endangered species occur within the proposed work area, or could be impacted by the work proposed, this Agreement shall not be valid and the Operator shall not proceed with the project until the Operator consults with the Department and obtains any required State and/or Federal permits.

8. Also included in this Agreement are provisions associated with dry drainage structures and/or stream/river crossings **along the Amargosa River along HWY 127 north of Shoshone from PM 20 north to PM 34, and along HWY 178 at PM 43.5 in Inyo County; and at the intersection of the Amargosa River and Route 127 at PM 32 in San Bernardino County.** Agreed work includes activity associated with the routine maintenance of existing drainage culverts and other structures, and an additional undetermined number of road shoulder and road shoulder collection ditches, **all within 100 feet of State Routes 127 or 178 and not associated with wetted streambeds.** Separate Notification and Agreement shall be required concerning the wetted areas of the AMARGOSA RIVER and for those projects more than 100 feet from State Routes 127 or 178 and those areas south of Shoshone in Inyo County, except at the intersection of the Amargosa River and Route 127 at PM 32 in San Bernardino County.

9. The Operator either certifies by signing this Agreement that no impacts shall occur to rare, threatened or endangered species in the proposed project areas, or shall have a qualified Biologist survey all areas of expected impact within the Amargosa River for Southwestern willow flycatcher (*Empidonax traillii extimus*) which is a Federally Endangered species, also Least Bell's vireo (*Vireo bellii pusillus*), Amargosa nitrophila (*Nitrophila mohavensis*) and the Amargosa Vole (*Microtus californicus scirpensis*), which are all State and Federally Endangered species, prior to conducting any project activities that may result in take of any of the above species. The Operator shall provide the survey results to the Department for review and approval, and shall comply with Fish and Game Code 2080 and 2081 prior to commencing any project activities where take of the above species may occur. The Operator shall be limited to maintenance activities within 100 feet of State Routes 127 or 178 until the time that such approved surveys indicate additional maintenance work can be completed without threat to these endangered species. The provisions of this Agreement may then be amended by mutually approved written agreement between both parties.

10. The Operator shall not allow water containing mud, silt or other pollutants from aggregate washing or other activities to enter a lake or flowing stream or placed in locations that may be subjected to high storm flows.

11. The Operator shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the operator to ensure compliance.

STREAMBED ALTERATION AGREEMENT FOR NOTIFICATION NUMBER: 1600-2005-0122-R6
June 28, 2005

12. The Operator will make all attempts to prevent the introduction of any invasive plants or animals in project areas.
13. Spoil sites shall not be located within a stream/lake, where spoil shall be washed back into a stream/lake, or where it will cover aquatic or riparian vegetation.
14. Raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities shall be prevented from contaminating the soil and/or entering the waters of the state. These materials, placed within or where they may enter a stream/lake, by Operator or any party working under contract, or with the permission of the Operator shall be removed immediately.
15. No broken concrete, debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any construction, or associated activity of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into, waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.
16. No equipment maintenance shall be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter these areas under any flow.
17. The Operator shall notify the Department, in writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities. Notification shall be sent to the Department at 407 West Line St; Bishop, CA 93514, Attn: Streambed Alteration Agreement. Please reference SAA # 1600-2005-0121-R6.
18. The Operator shall **provide a copy of this Agreement to all contractors, subcontractors, and the Applicant's project supervisors. Copies of the Agreement shall be readily available at work sites at all times during periods of active work** and must be presented to any Department personnel, or personnel from another agency upon demand.
19. The Department reserves the right to enter the project site at any time to ensure compliance with terms/conditions of this Agreement.

Extension of Agreement

20. The Operator shall request an extension of this agreement prior to its termination. Extensions may be granted for up to 12 months from the date of termination of the agreement and are subject to Departmental approval. The extension request and fees shall be submitted to the Department's Region 6 Office at the above address. If the Operator fails to request the extension prior to the agreement's termination then the Operator shall submit a new notification with fees and required information to the Department. Any activities conducted under an expired agreement are a violation of Fish and Game Code Section 1600 et. seq.

Suspension of Permit

21. The Department reserves the right to suspend or cancel this Agreement, after giving notice to the Operator, if the Department determines that the Operator has breached any of the terms or conditions of this Agreement, or for other reasons, including but not limited to the following:

STREAMBED ALTERATION AGREEMENT FOR NOTIFICATION NUMBER: 1600-2005-0122-R6
June 28, 2005

- a. The Department determines that the information provided by the Applicant in support of the Notification/Agreement is incomplete or inaccurate;
- b. The Department obtains new information that was not known to it in preparing the terms and conditions of the Agreement;
- c. The project or project activities as described in the Notification/Agreement have changed;
- d. The conditions affecting fish and wildlife resources change or the Department determines that project activities will result in a substantial adverse effect on the environment.

Concurrence (1600-2005-0122-R6)

In WITNESS WHEREOF, the parties below have executed this Lake or Streambed Alteration Agreement Number 1600-2005-0122-R6 as indicated below:

12-JULY-2005

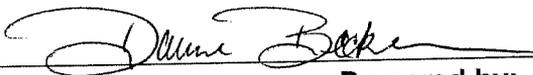
Date



Mr. Mark Heckman, Operator
California Department of
Transportation

12 July 2005

Date



Prepared by:
Dawne Becker
Associate Biologist
Department of Fish and Game

14 July 2005

Date



Michael E. Haynie,
Deputy Regional Manager
Department Of Fish and Game
Eastern Sierra-Inland Deserts Region