



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

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

CALTRANS DIST 9
2010 JUN -9 PM 12:32

DEPARTMENT OF FISH AND GAME

Inland Deserts and Eastern Sierra Region, Region 6
 Habitat Conservation Program
 407 West Line Street
 Bishop, California 93514
 (760) 872-1171

CAL. TRANS. DIST. 9

2000 AUG -8 PM 12: 15



**AGREEMENT REGARDING PROPOSED ACTIVITIES SUBJECT TO
 CALIFORNIA FISH AND GAME CODE SECTION 1601**

NOTIFICATION NUMBER: R6N-012-2000; (07/11/2000)

AGREEMENT PERIOD: July 1, 2000 to July 1, 2005

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the **Department**, and the **California Department of Transportation, District 9** (as represented by Mr. James E. Kemp, 760/872-0664), 500 S. Main Street, Bishop, 93514, County of Inyo, State of California, hereinafter called the **Operator**, is as follows:

WHEREAS, pursuant to Section 1601 of California Fish and Game Code, the Operator, on the 11th day of July, 2000 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 of, the following water(s): Various dry streambeds, washes, banks and channels throughout Inyo and Mono Counties.

WHEREAS, the Department (represented by Jeff Drongesen) has determined that such operations may substantially adversely affect existing fish and wildlife resources including: **those songbirds, raptors, other birds, mammals, reptiles, amphibians, fish (including brown and rainbow trout), plants (including riparian vegetation), and all other aquatic resources and wildlife in the various dry streambeds, washes, banks and channels throughout Inyo and Mono Counties and their associated area(s) affected by the proposed project in this Agreement.**

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.

CAL. TRANS. DIST. 9
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THIS AGREEMENT BECOMES EFFECTIVE ON July 1, 2000 AND TERMINATES ON July 1, 2005 for the proposed project only. This Agreement shall remain in effect for that time necessary to satisfy the terms and/or conditions of this Agreement.

CONDITIONS FOR NOTIFICATION No. R6N-012-2000:

1. The following provisions constitute the limit of activities agreed to and resolved by this Agreement. The signing of this Agreement does not imply that the Operator is precluded from doing other activities at the site. However, activities not specifically agreed to and resolved by this Agreement, shall be subject to separate notification pursuant to Fish and Game Code §1600.
2. The project area is located in the following streambeds: **Various dry streambeds, channels, washes and banks within Inyo and Mono Counties within the immediate vicinity of man-made facilities or structures.**
3. The Operator proposes to alter the streambed to perform the following work; **Perform channel maintenance activities to facilitate stream flow. Routine maintenance would include removing sediments, vegetation, debris or trash out of 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, or equipment operated from above the bank. Work within the channel shall not exceed more than 100 feet upstream or downstream from the centerline of the facility.
4. Maintenance activities may be performed at anytime providing the Operator uses best management practices. For those projects that will impact avifauna nesting activities, the operating period shall be September 1st through March 1st of each year.
5. All sediment deposits and vegetation removed from the streambed shall be placed outside of the banks of the stream/channel/lake where no impact to existing vegetation will occur.
6. All work activities shall be completed without any impact or disturbance to existing trees with a diameter-at-breast-height (DBH) of three (3) inches or greater, other than those exotic species identified in section 19 of this Agreement (Removal of exotic species during project activities is strongly encouraged).
7. Also included in this maintenance 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.**

8. **New construction and any work necessary within wetted streambeds, channels, washes and banks within Inyo and Mono Counties shall be covered under separate Agreement.**
9. **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.**
10. Pursuant to California Fish and Game code Section 2080, the Department is prohibited from entering into this Agreement if the project could result in take of a state listed endangered, threatened, or rare species. If take of a listed species may occur, the Operator must apply to and obtain from the Department a California Endangered Species Act (CESA) permit pursuant to California Fish and Game code Section 2081. The Department may formulate a management permit/plan that will avoid or mitigate take. The provisions of such permit/plan are additional provisions of this Agreement.
11. **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 specie, 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.**
12. 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.

13. This Agreement shall be reviewed every 5 years to ensure environmental conditions have not changed or that new provisions are not required to protect fish and wildlife or resolve conflict between the parties.
14. The Operator will avoid work on bridges when it would disturb nesting swallows (March 1st through September 1st). If such a condition cannot be met, then prior to March 1st, each year, the Operator will remove all unoccupied existing nests which would be destroyed by the project. The Operator will continue to discourage new nest building in places where they would be disturbed, using methods developed in consultation with the Caltrans District Biologist and the Department. Permission to destroy any occupied bird nest must be obtained from the Department and is only considered justified when work is essential to public safety.
15. Sediment curtains or some other appropriate measure(s) shall be utilized where necessary to ensure construction materials are not deposited into flows of the streambed/creek/inlet or outlet, or placed where they may be washed into flows of the streambed/creek/inlet or outlet.
16. The up and downstream streambed and streambank limits of disturbance within the construction work area, and any existing wetland/riparian habitat or aquatic vegetated areas outside of but adjacent to the area of impact, shall be identified with flagging or brightly colored mesh fencing or some other means readily conveyed to the equipment operators to ensure disturbance to the stream/lake is confined to that area minimally necessary to complete project construction. These limits will be identified by Operator's project supervisor familiar with the purpose of the terms of this Agreement prior to the beginning of project activities. Any impacts to existing wetland and/or riparian areas outside of the identified limits shall be coordinated with the Department prior to initiation of those impacts and may require amendment to this Agreement.
17. **On small maintenance projects, the supervisor's knowledge of the terms of this Agreement and close control over the equipment may be sufficient to keep work confined to agreed limits.**
18. The Operator is reminded of the following provisions for emergency repairs as listed in Fish and Game Code Section 1601: "The provisions of this section shall not be applicable to emergency work necessary to protect life or property; however, notification by the agency or public utility performing such emergency work shall be made to the department within 14 days of the commencement of such emergency work."
19. Vegetation shall not be removed or intentionally damaged beyond the identified work area or access corridor or beyond **the limit of 100 feet**, or as described above, **except that all accessible tamarisk (*Tamarix ramosissima*) commonly referred to as saltcedar, *Eleaegnus 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.** Removal of these species shall be between September 1st through March 1st of each year and phased so that all vegetation is not removed at once.

20. Fill length, width, and height dimensions shall not exceed those of the original installation or the original naturally occurring topography, contour, and elevation. Fill shall be limited to the minimal amount necessary to accomplish the agreed activities. Except as otherwise specified in this Agreement, fill construction materials other than on-site alluvium, shall consist of clean silt-free gravel or river rock.
21. Excess material must be removed from the project site pursuant to Dept. of Transportation Standard Specifications Section 7-1.13.
22. The operator shall notify the Department in writing during the project activities if any fish and wildlife losses are generated by these projects. Information required would include species and quantity.
23. The operator assumes responsibility for the restoration of any fish and wildlife habitat which may be impaired or damaged, either directly or incidental, to the project, as a result of failure to properly implement or complete the conditions of this Agreement, or from activities which were not included in the Operator's notification.
24. If a stream channel has been altered during the operations, its low flow channel shall be returned as nearly as possible to pre-project conditions without creating a possible future bank erosion problem, or a flat wide channel or sluice-like area.
25. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.
26. Vehicle access to all project activities will be limited to the least resource disturbing ingress and egress corridors possible. All other areas will be considered off-limits to equipment. Vehicles shall not be driven or equipment operated in water covered portions of a stream or in wetted areas (including but not limited to ponded, flowing, or wetland areas) or where wetland vegetation, riparian vegetation, or aquatic organisms may be destroyed, except as necessary to gain direct access to and from the project site for immediate project construction activities within the identified construction area described above.
27. Spoil sites shall not be located within a stream/lake, where spoil can be washed back into a stream/lake, or where it will cover aquatic or riparian vegetation. The Operator may remove all human generated debris, such a lawn and farm cuttings, garbage and trash. Vegetation removed from the site shall not be stockpiled in the streambed/lake or on its bank. The sites selected on which to place this material out of the stream/lake should be selected in compliance with other provisions of this Agreement.
28. Staging/storage areas for equipment and materials shall be located outside of the stream or its associated wetland/riparian habitat areas. Any equipment or vehicles driven and/or operated within or adjacent to the streambed shall be checked and maintained daily, to prevent leaks of materials that if introduced to water could be deleterious to aquatic life. No equipment maintenance shall be done within or near any stream channel or waters where petroleum products or other pollutants from the equipment may enter these areas under any flow.

29. 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. The clean-up of all pollution spills shall begin immediately. The Operator shall notify the Department immediately of any spills and shall consult with the Department regarding clean-up requirements.
30. All debris, rubbish, silt, cement or concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances resulting from project related activities which could be hazardous to aquatic life or waters of the state, shall be prevented from contaminating the soil and/or entering the waters of the state. None of these materials shall be allowed to enter into or be placed within or where they may enter or 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 100 feet of the high water mark of any stream or lake.
31. The Operator shall **provide a copy of this Agreement to all contractors, subcontractors, and the Operator's project engineers, supervisors, or inspectors. 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.
32. If the Operator or any of the individuals mentioned above, violate any of the terms or conditions of this Agreement, all work shall terminate immediately and shall not proceed until the Department has taken all of its legal actions. The Department reserves the right to enter the project site at any time to ensure compliance with terms/conditions of this Agreement.
33. The Department recommends the Operator contact the Lahonthan Regional Water Quality Control Board (LRWQCB) to verify that the proposed activities are consistent with the Basin Plan for the area. Copies of all permits or other correspondence to and from the LRWQCB shall be provided to the Department through the Department's Bishop Office.
34. The Department reserves the right to suspend or cancel this Agreement for other reasons, including but not limited to, the following:
 - a. The Department determines that the information provided by the Operator in support of 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; and
 - d. The conditions affecting fish and wildlife resources change or the Department determines that project activities will result in an adverse effect on the environment.

35. **California Code of Regulations, Title 14, Section 699.5 establishes fees for projects subject to Fish and Game Code Section 1601. The category for MAINTENANCE PROJECTS BY PUBLIC AGENCIES currently specifies a \$129.50 fee each for the first 20 projects; \$102.75 each for the second 20 projects; and \$78.25 each for maintenance projects in excess of 40. For purposes of this Agreement, a "project" is defined as work that falls within the agreed scope of maintenance work (i.e. each culvert worked on). The Operator shall submit annually by June 30th for the previous years activities, the number and description of "projects" associated with this Agreement that have been completed in the previous fiscal year, along with the appropriate fees not to exceed the current \$2,400.00 maximum; or shall notify the Department that no projects were completed.**

In WITNESS WHEREOF, the parties below have executed this Lake or Streambed Alteration Agreement Number R6N-012-2000 as indicated below.

July 26, 2000
Date

James E. Kemp
James E. Kemp
Operator
Department of Transportation

July 28, 2000
Date

Jeff Drongesen
Jeff Drongesen,
Environmental Specialist
Department of Fish and Game

8/4/2000
Date

Alan Pickard
Alan Pickard
Deputy Regional Manager
Department of Fish and Game

AGREEMENT TO AMEND
THE AGREEMENT between THE DEPARTMENT OF FISH AND GAME and THE CALIFORNIA
DEPARTMENT OF TRANSPORTATION for ROUTINE MAINTENANCE WORK IN WATERWAYS
IN INYO AND MONO COUNTIES

WHEREAS, California Department of Transportation (Operator) and the Department of Fish and Game (Department) entered into a Lake or Streambed Alteration Agreement #1600-2005-0122-R6 (agreement) on July 14, 2005; and

WHEREAS, the terms of a Lake or Streambed Alteration Agreement may be amended by mutual agreement; and

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions set forth below, the Operator and the Department agree as follows:

The terms and conditions contained in the original agreement shall remain in full force and effect through the date of July 1, 2010.

The Agreement is hereby amended to include Condition 23: At the end of each year, by June 1st, the Operator shall send to the Department a list of all maintenance projects completed. Pursuant to California Code of Regulations, Title 14, Section 699.5, the Operator shall also pay to the Department, a fee of \$100 for each maintenance project completed per calendar year.

A copy of this amendment and a copy of the original agreement shall be provided to any contractors and subcontractors of the Operator and copies of these documents shall be available at the project site.

IN WITNESS WHEREOF, the parties below have executed this amendment to "The Agreement between the Department of Fish And Game and The California Department of Transportation" as indicated below.

DEPARTMENT OF FISH AND GAME

9/23/07
Date

Denyse Racine
Denyse Racine, Senior Environmental Scientist

CALIFORNIA DEPARTMENT OF TRANSPORTATION

2-OCT-2007
Date

Mark Heckman
Mark Heckman, Operator



California Natural Resources Agency
DEPARTMENT OF FISH AND GAME
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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 DISTRICT 9
 2010 JUN -9 PM 12:32

Dear Mr. Heckman:

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Sincerely,

Brad Henderson
 Assistant Deputy Regional Manager