



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4593
www.wildlife.ca.gov

EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director



May 30, 2014

RECEIVED

JUN - 5 2014

MPWMD

Thomas Christensen
Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, California 93942

Subject: Final Lake or Streambed Alteration Agreement
Notification No. 1600-2013-0053-R4
Carmel River – Monterey County

Dear Mr. Christensen:

Enclosed is the final Streambed Alteration Agreement (Agreement) for the MPWMD Routine Maintenance Agreement (Project). Before the California Department of Fish and Wildlife (Department) may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, the Department, acting as a responsible agency, filed a notice of determination (NOD) on the same date it signed the Agreement. The NOD was based on information contained in the Environmental Impact Report the lead agency prepared for the Project.

Pursuant to CEQA Guidelines sections 15075(g) and 15094(g), filing of a NOD starts a 30-day statute of limitations during which a party may challenge the filing agency's approval of the Project. You may begin your Project before the 30-day period 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 matter, please contact Robb Tibstra, Environmental Scientist, at (805) 594-6116 or Robert.Tibstra@wildlife.ca.gov.

Sincerely,

Jeffrey R. Single, Ph.D.
Regional Manager

cc: Robb Tibstra

NOTICE OF DETERMINATION

TO: Office of Planning and Research
Post Office Box 3044
Sacramento, California 95814

FROM: California Department of Fish and Wildlife
Central Region
1234 East Shaw Avenue
Fresno, California 93710

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resources Code.

PROJECT TITLE: Stream Alteration Agreement No. 1600-2013-0053-R4 for the Routine Maintenance Agreement—Monterey Peninsula Water Management District.

STATE CLEARINGHOUSE NUMBER: 84032705

LEAD AGENCY: Monterey Peninsula Water Management District
CONTACT: Thomas Christensen, (831) 238-2547

RESPONSIBLE AGENCY: California Department of Fish and Wildlife
CONTACT: Robb Tibstra, (805) 594-6116

PROJECT LOCATION: The Project will occur at various locations on the Carmel River from the currently existing San Clemente Dam at River Mile 18.6 (Latitude $36^{\circ} 26' 9.728''$ N; Longitude $121^{\circ} 42' 31.986''$ W) to the lagoon at River Mile 0 (Latitude $36^{\circ} 32' 10.159''$ N; Longitude $121^{\circ} 55' 42.353''$ W), entirely within Monterey County.

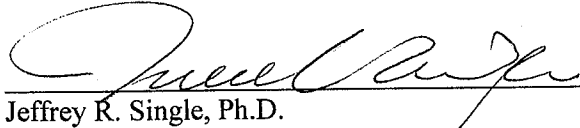
PROJECT DESCRIPTION: The California Department of Fish and Wildlife is executing a Lake or Streambed Alteration Agreement pursuant to Section 1602 of the Fish and Game Code for routine maintenance activities, including removal of woody and herbaceous plants, downed trees, debris, and litter that pose potential flow restrictions near structures and facilities; installation of new and repair of existing bank stabilization structures to minimize erosion. All work will occur in isolation of stream flow.

This is to advise that CDFW as a Responsible Agency approved the Project described above on 10/2/14 and has made the following determinations regarding the above described Project.

1. The Project will not have a significant effect on the environment.
2. An Environmental Impact Report was prepared for this Project pursuant to the provisions of CEQA.
3. Mitigation measures were made a condition of the approval of the Project.
4. A Statement of Overriding Considerations was not adopted for this Project
5. Findings were made pursuant to the provisions of CEQA.

This is to certify that a copy of the Environmental Impact Report prepared for this Project is available to the general public and may be reviewed at: Monterey Peninsula Water Management District, 5 Harris Court, Building G, Monterey, California 93942. Please contact the person specified above.

Date: 10/2/14


Jeffrey R. Single, Ph.D.
Regional Manager, Central Region
California Department of Fish and Wildlife

Date received for filing at OPR: _____

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
REGION 4-CENTRAL REGION
1234 EAST SHAW AVENUE
FRESNO, CALIFORNIA 93710



ROUTINE MAINTENANCE AGREEMENT
STREAMBED ALTERATION AGREEMENT
NOTIFICATION No. 1600-2013-0053-R4
CARMEL RIVER—MONTEREY COUNTY

THOMAS CHRISTENSEN
MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
5 HARRIS COURT, BUILDING G
MONTEREY, CALIFORNIA 93942

ROUTINE MAINTENANCE AGREEMENT--MPWMD (PROJECT)

This Routine Maintenance Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and the Monterey Peninsula Water Management District (referred to as Permittee), represented by Thomas Christensen.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified CDFW on March 19, 2013, 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 Protective Measures in this Agreement necessary to protect those resources.

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

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

PROJECT LOCATION

The Project will occur at various locations on the Carmel River from the currently existing San Clemente Dam at River Mile 18.6 (Latitude 36° 26' 9.728" N; Longitude 121° 42' 31.986" W) to the lagoon at River Mile 0 (Latitude 36° 32' 10.159" N; Longitude 121° 55' 42.353" W), entirely within Monterey County.

PROJECT DESCRIPTION

The Project includes the following routine maintenance activities:

- Removal of parts of woody and herbaceous plants that potentially cause flow restrictions in areas adjacent to man-made structures and facilities. Debris lodged in the bed or bank of the River shall be cut off at the bed or bank level with hand tools. Total linear distance treated will not exceed 2,640 feet or 30 feet in width.
- Removal of downed trees or branches, associated debris, rubbish, and litter that poses potential to impede flows or create a fire hazard. Tree root structure will not be disturbed.
- Removal of soil, silt, debris, algae, or other materials from the channel that potentially impede flow. Such activities will be conducted in isolation of standing water.
- Removal of non-native, invasive plant species and planting of native riparian vegetation by hand, using cuttings from adjacent species.
- Repair of existing bank stabilization structures that are damaged or have failed sections of rock rip-rap. Repairs shall be within the existing footprint of the original structure.
- Installation of bio-engineered bank stabilization and erosion control in areas up to 400 linear feet. Materials will include porous materials such as hydro and broadcast seeding, vegetative and riparian planting, use of geotextile fabric, installation of root wads, log crib walls, and other bio-engineered techniques. Locations and specific methods and design plans will be approved by the CDFW prior to implementation as specified below.
- All work is anticipated to occur outside the wetted portion of the channel. If necessary to operate equipment or otherwise cause disturbance to the active channel, a dewatering plan will be developed and approved by CDFW prior to work proposed in wetted portions of the channel.
- No heavy equipment will enter the wetted portion of the channel.
- In most years loppers, chain saws, and other hand tools will be used. Heavy equipment may be used for stream bank repairs and new bank stabilization.

PROJECT IMPACTS

This Agreement is intended to avoid, minimize, and mitigate adverse impacts to the fish and wildlife resources that occupy the area of the Carmel River within the Project area, and the immediate adjacent habitat. Absent implementation of the Protective Measures required by this Agreement, the following species and habitat types could potentially be impacted within the area covered by this Agreement: the Federally threatened and

State species of special concern (SSC) California red-legged frog (*Rana draytonii*), the Federally threatened south-central California coast steelhead (*Oncorhynchus mykiss*), the Federally endangered tidewater goby (*Eucyclogobius newberryi*), and the SSC Pacific pond turtle (*Actinemys marmorata*), as well as other birds, mammals, fish, reptiles, amphibians, invertebrates, and plants that comprise the local ecosystem. The California Natural Diversity Data Base (CNDDDB) and other CDFW files and references contain information on species that could be subject to potential impacts generated from this Project.

PROTECTIVE MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative Protective Measure described below.

- 1.1 Documentation at Project Site. Permittee shall make this Agreement, any extensions and amendments to this 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 this Agreement and any extensions and amendments to this 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 Protective Measure in this 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 to verify compliance with this Agreement.
- 1.5 Legal Obligations. This Agreement does not exempt Permittee from complying with all other applicable local, State, and Federal law, or other legal obligations.
- 1.6 Unauthorized Take. This Agreement does not authorize the "take" (defined in Fish and Game Code Section 86 as to hunt, pursue, catch, capture, or kill; or attempt to hunt, pursue, catch, capture, or kill) of State- or Federally-listed threatened or endangered species. Any such "take" shall require separate permitting as may be required.
- 1.7 Property Not Owned by Permittee. To the extent that the Protective Measures of this Agreement provide for activities that require Permittee to enter on another owner's property, they are agreed to with the understanding that Permittee possesses the legal right to so enter.

- 1.8 Water Diversion. To the extent that the Protective Measures of this Agreement provide for the diversion of water, they are agreed to with the understanding that Permittee possesses the legal right to so divert such water.
- 1.9 Work Plan. Permittee shall submit an Annual Work Plan to CDFW (mail, email, or fax to (805) 542-4609, with reference to Agreement 2013-0053-R4) for approval by June 1 (and at least two (2) weeks prior to initiation of work) of each calendar year that this Agreement is valid, prior to beginning any activities covered by this Agreement. The Work Plan shall include activities, activity locations, seasonal timing (i.e., a date range), area covered by each activity, and specific treatment methods for each site (including anticipated equipment used). Notification for maintenance activities covered by this Agreement but not indicated in the annual work plan shall be submitted to CDFW for approval at least two (2) weeks prior to initiation of work. No activities shall commence until CDFW has provided written (e.g., email) approval that the activities proposed in the Work Plan and any subsequent notices are consistent with the Project description of this Agreement.
- 1.10 Training. Prior to starting any activity covered by this Agreement, all employees, contractors, landowners at Project areas, and visitors who will be present during Project activities shall receive training from a qualified individual on the contents of this Agreement, the resources at stake, and the legal consequences of non-compliance. Documentation of this training shall be provided to CDFW within the Annual Report specified in Section 4 below.

2. **Avoidance and Minimization Measures**

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

- 2.1 Construction/Work Hours. All non-emergency work activities shall be confined to daylight hours. For purposes of this Agreement, "daylight hours" are defined as that daytime period between sunrise and sunset.
- 2.2 Flagging/Fencing. Prior to any activity covered by this Agreement, Permittee shall identify the limits of the required access routes and encroachment into the stream. These "work area" limits shall be identified with brightly-colored flagging/fencing. Work completed under this Agreement shall be limited to this defined area only. Flagging/fencing shall be maintained in good repair for the duration of the Project. All areas beyond the identified work area limits shall be considered Environmentally Sensitive Areas (ESA) and shall not be disturbed. Alternate flagging and fencing protocols protecting ESAs may be developed in consultation with CDFW and utilized for specific Projects as proposed in the Annual Work Plan (Administrative Measure 1.9).
- 2.3 Listed and Other Special Status Species.
- (a) This Agreement does not authorize "take" of any State- or Federally-listed threatened or endangered, or fully-protected species. Liability for any "take,"

or "incidental take," of such listed species remains the responsibility of Permittee for the duration of the Project. Any unauthorized "take" of such listed species may result in prosecution and nullify this Agreement.

- (b) Permittee affirms that no "take" of listed species will occur as a result of this Project and will take prudent measures to ensure that all "take" is avoided. Permittee acknowledges and fully understands that it does not have State "incidental take" authority. If any State- or Federally-listed threatened or endangered species occur within the proposed work area or could be impacted by the work proposed, and thus "taken" as a result of Project activities, Permittee is responsible for obtaining and complying with required State and Federally threatened and endangered species permits or other written authorization before proceeding with this Project.
- (c) Permittee shall immediately notify CDFW of the discovery of any rare, threatened, or endangered species prior to and during Project activities.
- (d) Pre-activity surveys for potential rare, listed, or other sensitive species (with emphasis on the species listed above) shall be conducted by a qualified biologist within 30 days prior to commencement of Project activities unless specified in species-specific measures below. Surveys must be conducted on the work area and all access routes to avoid and minimize "incidental take," confirm previous observations, identify any areas occupied by listed or sensitive species, and clearly mark all resources to be avoided by Project activities. If any State- or Federally-listed threatened or endangered animal species are found or could be impacted by the work proposed, Permittee shall notify CDFW of the discovery prior to commencement of construction. A new Agreement and/or a 2081(b) State Incidental Take Permit may be necessary and a new CEQA analysis may need to be conducted, before work can begin. All survey results will be documented and submitted as part of the Annual Report (Reporting Measure 4.2).
- (e) Prior to Project activities, a qualified biologist shall conduct training sessions to familiarize all workers with identification of the listed species listed above, their habitat, the native and non-native plant species in the Project area, general provisions and protections afforded by the California and Federal Endangered Species Acts, measures implemented to protect these species, and a review of the Project boundaries.
- (f) South-Central California Coast Steelhead and Tidewater Goby: Active treatment activities with potential to disturb the bed, bank, or channel in areas located within 25 feet of surface water shall occur between June 15 and October 31.
- (g) California Red-Legged Frog: Within 48 hours prior to commencing Project activities in any area that provides habitat for the species, the Project site shall be surveyed for California red-legged frog by a qualified biologist. If any individuals are found before or during Project activities, CDFW shall be

contacted immediately and work cease or shall not start, whichever applies, until CDFW has provided written approval for work to continue. All survey results, including those resulting in no detections, will be provided to CDFW as part of the Annual Report (Reporting Measure 4.2).

- (h) Western Pond Turtle: Any turtles discovered at the site immediately prior to or during Project activities shall be allowed to leave the Project area of their own accord, or shall be captured by a qualified biologist who holds a Scientific Collecting Permit for the species and relocated out of harm's way to the nearest suitable habitat immediately upstream or downstream from the Project site but out of the influence of Project.

2.4 Fish and Wildlife.

- (a) If any fish or wildlife is encountered during the course of Project activity, said fish or wildlife shall be allowed to leave the Project area unharmed.
- (b) Pursuant to FGC Sections 3503 and 3503.5, it is unlawful to "take," possess, or destroy the nest or eggs of any bird or bird-of-prey. To protect nesting birds, no Project activities shall be completed from March 1 through August 31 unless the following surveys are completed by a qualified biologist within 30 days prior to commencing Project activities in each location of work each year.

Non-Listed Raptors: Survey for nesting activity of raptors within a 500-foot radius of the Project site. Surveys shall be conducted at appropriate nesting times and concentrate on trees with the potential to support raptor nests. If any active nests are observed, these nests and nest trees shall be designated an ESA and protected with a minimum 500-foot buffer until young have fledged and are no longer reliant on the nest site or parental care.

Other Avian Species: Survey riparian areas for nesting activity within a 250-foot radius of the Project area. If any nesting activity is found, these nests shall be designated an ESA and protected with a minimum 250-foot buffer until young have fledged and are no longer reliant on the nest site or parental care.

CDFW may consider variances from these buffers when there is a compelling biological or ecological reason to do so, such as when the Project area would be concealed from a nest site by topography.

2.5 Vegetation.

- (a) The disturbance or removal of vegetation within the Project Boundaries shall not exceed the minimum necessary to complete Project goals as defined in the above Project description. Precautions shall be taken to avoid other damage to non-target vegetation by people or equipment.

- (b) Woody shrubs and trees, including oak trees, shall only be removed from the Project sites to the minimum extent necessary to complete maintenance activities. Trimming of such vegetation shall consist of no more than cutting to 1-foot above ground level. All damaged or removed woody-stemmed trees and shrubs with a diameter at breast height (DBH) of four (4) inches or greater shall be mitigated at a 3:1 ratio (replaced to lost). Mitigation for heritage trees 24-inches DBH or greater shall be replaced at a 10:1 ratio. Permittee shall document the number and species of all woody-stemmed plants/trees with a DBH of four (4) inches or greater that will be removed or damaged. This documentation shall be used as the basis for replacement mitigation and shall be submitted to CDFW with the Revegetation Plan (see Revegetation and Restoration).
- (c) Trimmed vegetation and cleared woody debris shall be removed from the vicinity of the stream channel and disposed of in a legal manner.
- (d) Heavy equipment and other machinery shall be inspected for the presence of undesirable species and cleaned prior to on-site use to reduce the risk of introducing exotic plant species into the Project site.

2.6 Vehicles.

- (a) Vehicles shall not be operated in areas where surface water is present.
- (b) Vehicle access to the stream's banks and bed shall be limited to predetermined ingress and egress corridors on or adjacent to existing roads. All other areas adjacent to the work site shall be considered an ESA and shall remain off-limits to construction equipment.
- (c) Any equipment or vehicles driven and/or operated within or adjacent to the stream shall be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic and terrestrial life.
- (d) Staging and storage areas for equipment, materials, fuels, lubricants, and solvents shall be located outside of the stream channel and banks. Stationary equipment such as motors, pumps, generators, compressors and welders, located within or adjacent to the stream, shall be positioned over drip-pans. Vehicles shall be moved away from the stream prior to refueling and lubrication.

2.7 Structures.

- (a) Permittee confirms that any and all structures and constructed features shall be properly aligned and otherwise engineered, installed, and maintained, to assure resistance to washout, and to erosion of the stream bed, stream banks and/or fill and that they will not cause long-term changes in water flows that adversely modify the existing upstream or downstream stream bed/bank contours or increase sediment deposition.

- (b) For any new bank stabilization structures or instream features: Permittee shall submit Engineered Design Plans to CDFW for approval at least 60 days prior to beginning work. Acceptance may be dependent upon Permittee providing additional information to CDFW that includes engineering calculations (such as design flow, 100 year flow, rock size calculations, etc.) used in determining design parameters. CDFW may provide written approval of Engineered Design Plans, based upon the anticipated performance of the structures and their influence on the future geomorphology of the Carmel River relating to fish passage for all life stages of Steelhead and other species that may be present at the site.
- 2.8 Fish Rescue. If fish are present in the work site and dewatering is necessary, a qualified biologist, with all necessary State and Federal permits, shall rescue any fish within the work site prior to diverting water. Rescued fish shall be moved to the nearest appropriate site outside of the work area. A record shall be maintained of all fish rescued and moved. The record shall include, at a minimum, the date of capture and relocation, the method of capture, location of relocation in relation to the Project site, and the number and type of fish captured and relocated. The record shall be provided to CDFW within two (2) weeks of the completion of the work season or Project, whichever comes first. Any fish rescue activity shall not conflict with any Biological Opinions from USFWS and NOAA Fisheries obtained as part of the Project.
- 2.9 Water Diversion/Dewatering Plan. If any Project locations require dewatering to create dry conditions, a Dewatering Plan shall be submitted to CDFW for approval at least 30 days prior to implementation. The Plan shall detail the specific locations and methods of implementing dewatering activity and incorporate the following:
- (a) Instream work shall be done in isolation from surface water flow. Water drafting, pumping, or other water diversion shall be done in a manner that is not harmful to fish or other aquatic or semi-aquatic species of wildlife. Pump inflow tubes or hoses shall be screened according to criteria for small diversions as specified by the Department and NOAA Fisheries (http://www.dfg.ca.gov/fish/Resources/Projects/Engin/Engin_ScreenCriteria.asp).
- (b) Any equipment or structures placed in the active channel for water drafting, pumping or diversion shall be done in a manner that a) prevents pollution and/or siltation; b) provides flows to downstream reaches at all times to support aquatic life; c) provides flows of sufficient quality and quantity, and of appropriate temperature to support aquatic life, both above and below the diversion; and d) restores normal flows to the affected stream immediately upon completion of work at each location.
- (c) Temporary diversion structures used to isolate the work area shall be constructed in a manner that prevents seepage from the work area. Said structures shall be constructed of non-erodible materials unless enclosed by sheet piling, rock riprap, or other protective material. The structure, including

all fill, enclosure material, and trapped sediments, shall be removed when the Project is completed.

- (d) Any Project-related water drafting, pumping, or other water diversion including ground disturbing activities not specifically addressed in this Agreement, is subject to further Protective Measures through an amendment to this Agreement.

2.10 Fill/Spoil. Spoil storage sites shall not be located within the stream or where spoil will be washed into the stream. Rock, gravel, and/or other materials shall not be imported into or moved within the bed or banks of the stream, except as otherwise addressed in this Agreement.

2.11 Erosion.

- (a) No work within the banks of the stream shall be conducted during or within 24 hours following large rainfall events. For purposes of this Agreement, a "large rainfall event" is defined as rainfall totaling one half of 1-inch (1/2-inch) of rain in any 24-hour period.
- (b) All disturbed soils within the Project site shall be stabilized to reduce erosion potential, both during and following Project activity. Temporary erosion control devices, such as straw bales, silt fencing, and sand bags, may be used, as appropriate, to prevent siltation of the stream. Any installation of non-erodible materials not described in the original Project description shall be coordinated with CDFW.
- (c) Precautions to minimize siltation may require that the work site be isolated so that silt or other deleterious materials are not allowed to pass to downstream reaches. The placement of any structure or materials in the stream for this purpose, not included in the original Project description, shall be coordinated with CDFW. If it is determined that silt levels resulting from Project-related activities constitute a threat to aquatic life, activities associated with the siltation shall be halted until effective CDFW-approved control devices are installed, or abatement procedures are initiated.

2.12 Pollution.

- (a) Raw cement, concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances that could be hazardous to fish or wildlife resulting from Project-related activities, shall be prevented from contaminating the soil and/or entering the "Waters of the State".
- (b) Permittee and all contractors shall be subject to the water pollution regulations found in FGC Sections 5650 and 12015.

- (c) The cleanup of all spilled materials shall begin immediately. CDFW shall be notified immediately by Permittee of any spills and shall be consulted regarding cleanup procedures.
- (d) All Project-generated debris and rubbish shall be removed from the stream and from areas where such materials could be washed into the stream.

3. Compensatory Measures

To compensate for adverse impacts to fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each Protective Measure listed below.

3.1 Revegetation and Restoration.

- (a) For trees and shrubs four (4) inches DBH and larger that are trimmed or otherwise damaged, Permittee shall develop a Revegetation Plan for the site and submit it to CDFW for approval prior to commencement of the proposed Project activity. The Revegetation Plan shall specifically address plantings of native trees as indicated in Avoidance and Minimization Measure 2.5(b) above, and include monitoring and maintenance to ensure a minimum of 70 percent survival for the plantings after five (5) years, including a period of three (3) consecutive years when supplemental watering may be utilized followed by an additional two (2) years without such assistance. The Plan shall propose the planting location(s) and include requirements for annual monitoring, performance criteria, and remedial actions in the event that plantings are not successful. Tree and shrub removal shall not commence until the Revegetation Plan is approved by CDFW.
- (b) If the Project causes any exposed slopes or exposed areas on stream banks, these areas shall be seeded (with weed-free straw or mulch) with a blend of a minimum of three (3) locally native grass species. One (1) or two (2) sterile non-native perennial grass species may be added to the seed mix provided that amount does not exceed 25 percent of the total seed mix by count. Locally native wildflower and/or shrub seeds may also be included in the seed mix. The seeding shall be completed as soon as possible, but no later than November 15 of the year construction ends or as otherwise approved in advance and in writing by CDFW. A seed mixture shall be submitted to CDFW for approval prior to application. At the discretion of CDFW, all exposed areas where seeding is considered unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.
- (c) Where suitable vegetation cannot be reasonably expected to become established, non-erodible materials shall be used for such stabilization. Any installation of non-erodible materials not described in the original Project description shall be coordinated with CDFW. Coordination may include the negotiation of additional Protective Measures for this activity.

4. Reporting Measures

Permittee shall meet each reporting requirement described below.

4.1 Obligations of Permittee.

- (a) Permittee shall have primary responsibility for monitoring compliance with all Protective Measures in this Agreement. Protective Measures must be implemented within the time periods indicated in this Agreement and the program described below.
- (b) Permittee (or Permittee's designee) shall ensure the implementation of the Protective Measures of this Agreement, and shall monitor the effectiveness of the Protective Measures.

4.2 Reports. Permittee shall submit the following Reports to CDFW. All reports shall be sent as hard copy to CDFW, and Permittee may additionally send reports in electronic format to the CDFW contact (see Contact Information, below).

- An Annual Work Plan submitted for CDFW approval by June 1 of each calendar year and at least two weeks before commencing Project activity (Administrative Measure 1.8). If necessary, additional work sites not included in the Annual Work Plan shall be submitted for CDFW approval at least two (2) weeks prior to initiation of work (Administrative Measure 1.9).
- Annual Status Report: An Annual Status Report and associated fees (see Fees, below) shall be submitted to CDFW by February 1 of each calendar year that this Agreement is valid, for the previous calendar year. The Annual Status Report shall include the following information:
 - A summary of all work for each maintenance activity that was completed the previous calendar year.
 - Documentation of employee training (Administrative Measure 1.10 and Avoidance and Minimization Measure 2.3(e)).
 - A summary of Protective Measures implemented at each Project site where maintenance activities occurred.
 - Results of biological surveys, conducted as warranted (Avoidance and Minimization Measures 2.3(d and g), and 2.4(b)).
 - Reports shall include photo documentation consisting of "before and after" photos of the Project areas where each maintenance activity was completed.
 - If no work was conducted during the calendar year, an Annual Status Report will be submitted to CDFW indicating that status.

- Design plans for new bank stabilization or instream structures, submitted for approval at least 30 days prior to implementation (Avoidance and Minimization Measure 2.7(b)).
- Results of any Fish Rescue operations within two (2) weeks of implementation (Avoidance and Minimization Measure 2.8).
- Dewatering Plan, submitted to CDFW for approval at least 30 days prior to implementation for each activity requiring dewatering (Avoidance and Minimization Measure 2.9).
- Documentation of trees and shrubs four (4) inches DBH or larger that are trimmed or damaged (Avoidance and Minimization Measure 2.5(b)); and a Revegetation Plan if any trees four (4) inches DBH and larger will be removed or damaged, submitted to CDFW for approval at least 30 days prior to commencing the Project activity (Compensatory Measure 3.1(a)).
- A seed mixture to be used to control erosion, submitted to CDFW for approval prior to application (Compensatory Measure 3.1(b)).
- A Four-Year Status Report no later than 90 days prior to the end of each four (4) year period for the duration of this Agreement, including the following:
 - 1) A copy of the original Agreement.
 - 2) The status of the activity covered by this Agreement.
 - a. An evaluation of the success or failure of the Protective Measures in this Agreement to protect the fish and wildlife resources that the activity may substantially adversely affect.
 - b. A discussion of any factors that could increase the predicted adverse impacts on fish and wildlife resources, and a description of the resources that may be adversely affected.

CONTACT INFORMATION

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

To Permittee:

Thomas Christensen
Monterey Peninsula Water Management District
5 Harris Court, Building G
Monterey, California 93942
Thomas@mpwmd.net

To CDFW:

California Department of Fish and Wildlife
Region 4 – Central Region
1234 East Shaw Avenue
Fresno, California 93710
Attn: Lake and Streambed Alteration Program – Robb Tibstra
Notification #1600-2013-0053-R4
Phone: (805) 594-6116
Robert.Tibstra@wildlife.ca.gov

FEES

California Code of Regulations, Title 14 (CCR 14, Section 699.5) establishes fees for Projects subject to Fish and Game Code 1602. Fees for activities authorized by this Agreement shall be assessed pursuant to FGC§ 1609.

A lump sum fee shall be paid to CDFW, submitted with the Annual Report, based on the total number of routine maintenance Projects undertaken for that year (which shall be equal to the number of Projects indicated in the Annual Report. Fees shall be assessed based upon the fee schedule that is prevailing at the time of payment.

A one-time extension fee shall be based upon the fee schedule (CCR14, Section 699.5(f)) that is prevailing at the time of payment.

Amendment fees shall be based upon the fee schedule (CCR 14, Section 699.5(g)) that is prevailing at the time of payment and according to the scope of change.

LIABILITY

Permittee shall be solely liable for any violations of this 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 this 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 this 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 this Agreement.

Before CDFW suspends or revokes this 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 this 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 this Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking this Agreement.'

Nothing in this 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 this 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 this 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 this Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's fee schedule at the time of the request (see Cal. Code Regs., Title 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of this 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 this Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's fee schedule at the time of the request (see Cal. Code Regs., Title 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one (1) extension of this Agreement, provided the request is made prior to the expiration of this Agreement's term. To request an extension, Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's fee schedule at the time of the request (see Cal. Code Regs., Title 14, § 699.5). CDFW shall process the extension request in accordance with FGC 1605(b) through (e).

If Permittee fails to submit a request to extend this Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the Project this Agreement covers (FGC § 1605, subd. (f)).

EFFECTIVE DATE

This 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 FGC section 711.4 filing fee listed at http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall remain in effect for 12 years beginning on the date signed by CDFW, unless it is terminated or extended before then. All Protective Measures in this Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any Protective Measures specified herein to protect fish and wildlife resources after this Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

In approving this Agreement, CDFW is independently required to assess the applicability of CEQA. The features of this Agreement shall be considered as part of the overall Project description.

Permittee's concurrence signature on this Agreement serves as confirmation to CDFW that the activities conducted under the terms of this Agreement are consistent with the Project as described in the CEQA Environmental Impact Report (EIR) prepared by Monterey Peninsula Water Management District as the Lead Agency for the Carmel River Management Plan, and approved on November 2, 1984 (State Clearinghouse No. 84032705). A copy of the EIR was provided to CDFW by Permittee.

CDFW, as a CEQA Responsible Agency, shall submit a Notice of Determination and Findings to the State Clearinghouse upon signing this Agreement.

EXHIBITS

The document listed below is included as an exhibit to this Agreement and is incorporated herein by reference.

Figure 1. Project Location USGS Quad Map.

AUTHORITY

If the person signing this 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 terms herein.

AUTHORIZATION

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

CONCURRENCE

The undersigned accepts and agrees to comply with all the terms of this Agreement.

FOR MONTEREY PENINSULA WATER MANAGEMENT DISTRICT



Thomas Christensen



Date

FOR CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE



Jeffrey R. Single, Ph.D.
Regional Manager – Central Region



Date

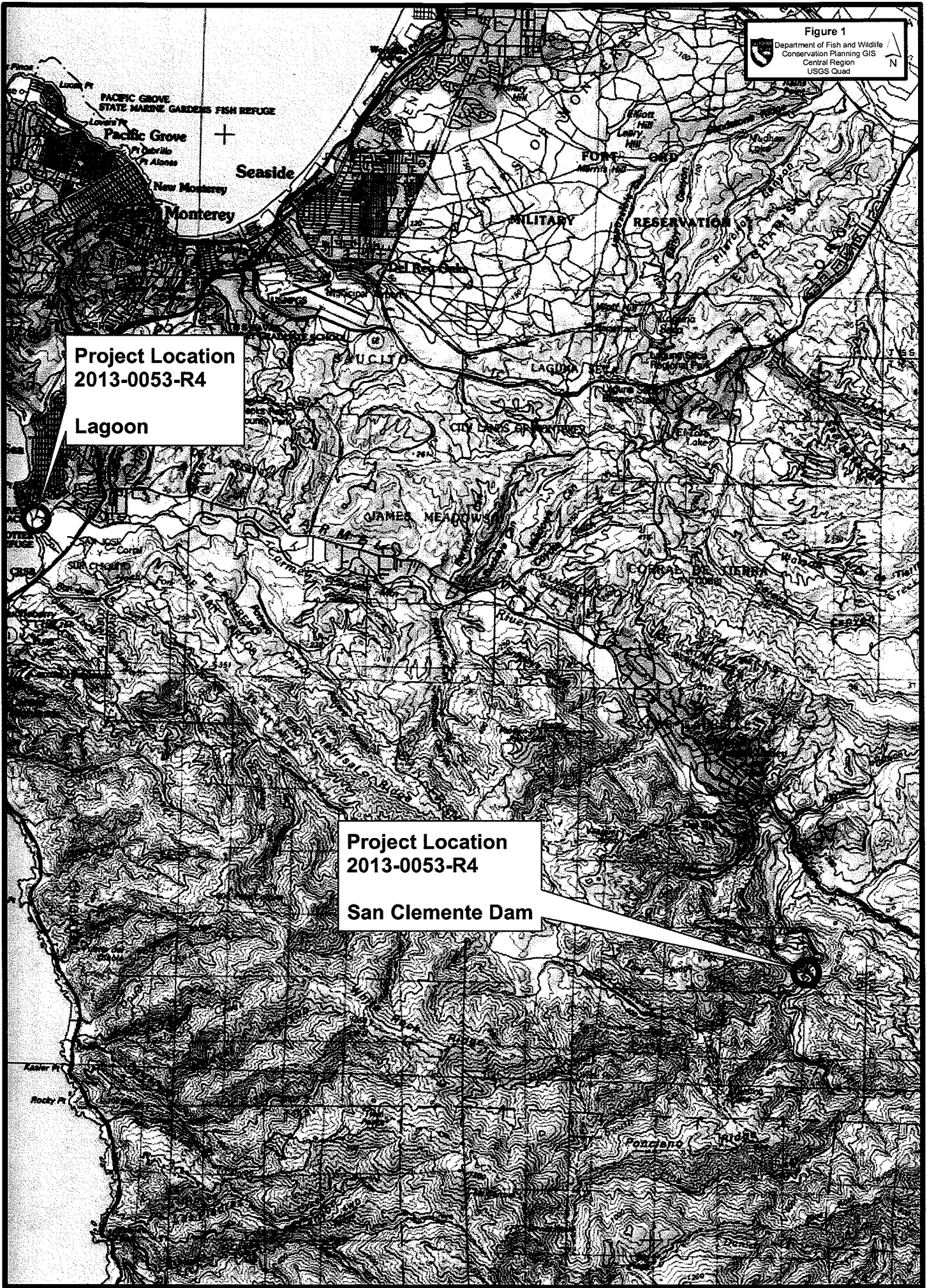
Prepared by: Robb Tibstra
Environmental Scientist

Figure 1

Exhibit A

Figure 1

Department of Fish and Wildlife
Conservation Planning GIS
Central Region
USGS Quad



Project Location
2013-0053-R4
Lagoon

Project Location
2013-0053-R4
San Clemente Dam