

AGREEMENT REGARDING PROPOSED STREAM ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and CSU, Chico Research Foundation represented by John Miner of Chico, State of California, hereafter called the Operator, is as follows:

WHEREAS, pursuant to California Fish and Game Code, Section 1602, the Operator, on May 18, 2008, notified the Department that he intends to substantially divert or obstruct the natural flow of, or substantially change the bed, channel, or bank of, or use material from the streambed of, the following water: Big Chico Creek, in the County of Butte, State of California, Section 28, Township 22 North, Range 1 East, USGS Map Chico MDB&M.

WHEREAS, the Department, represented by Robert Hosea, has determined that such operations may substantially adversely affect existing fish and wildlife resources including: native anadromous salmonid species, cold water fish species, warm water fish species, amphibians, and other aquatic and terrestrial plant and wildlife species.

THEREFORE, the Department hereby proposes measures to protect fish and wildlife during the Operator's work. The Operator hereby agrees to accept the following recommendations as part of his work:

This agreement pertains to creation of about 700 linear feet of flood plain on Big Chico Creek. There are 2 bank stabilization projects totaling about 460 linear feet. These stabilization plans include placement of some bank armoring, as well as rock veins in the creek and the use of native willow mattresses. In addition, native vegetation restoration is planned for the site which covers approximately a 1/3 mile segment of the creek.

Stream Zone Defined: The stream zone is that portion of the stream channel that restricts lateral movement of water. The stream zone is delineated at the top of the bank or the outer edge of any riparian vegetation, whichever is more landward.

1. The notification, together with all supporting documents submitted with the notification, including the engineering plans, site map, and biological survey results, is hereby incorporated into this agreement to describe the location and features of the proposed project. The Operator agrees that all work shall be done as described in the notification and supporting documents, incorporating all project modifications, wildlife resource protection features, mitigation measures, and provisions as described in this agreement. Where apparent conflicts exist between the notification and the provisions listed in this agreement, the Operator shall comply with the provisions listed in this agreement. The Operator further agrees to notify the Department of any modifications made to the project plans submitted to the Department. At the discretion of the Department, this agreement will be amended to accommodate modifications to the project plans submitted to the Department and/or new project activities. Please see the current fee schedule to determine the appropriate amendment fee.
2. Documents, plans, surveys, notifications, and requests pertaining to this project or required by this agreement may be sent via email to Robert Hosea at bhosea@dfg.ca.gov or delivered to the Department of Fish and Game at 1701 Nimbus Road, Suite A, Rancho Cordova, CA 95670. Refer to Notification Number 1600-2008-0111-R2 when submitting documents to the Department.
3. The time period for completing the work within the stream zone of Big Chico Creek shall be

restricted to periods of low stream flow and dry weather and shall be confined to the period of April 15th to October 15th. Construction activities shall be timed with awareness of precipitation forecasts and likely increases in stream flow. Construction activities shall cease until all reasonable erosion control measures have been implemented prior to all storm events. Weather forecasts shall be documented upon request by the Department. Revegetation, restoration and erosion control work is not confined to this time period.

4. If the Operator finds more time is needed to complete the authorized activity, the Operator shall submit a written request for a work period time extension to the Department. The work period extension request shall provide the following information: 1) Describe the extent of work already completed; 2) Provide specific detail of the activities that remain to be completed within the stream zone; and 3) Detail the actual time required to complete each of the remaining activities within the stream zone. The work period extension request should consider the effects of increased stream conditions, rain delays, increased erosion control measures, limited access due to saturated soil conditions, and limited growth of erosion control grasses due to cool weather. Time extensions are issued at the discretion of the Department. The Department will review the written request to work beyond the established work period. The Department will have ten calendar days to approve the proposed work period extension. The Department reserves the right to require additional measures designed to protect natural resources.
5. The Operator is responsible for obtaining all required permits and authorizations from local, state and federal agencies. The Operator shall notify the Department where conflicts exist between the provisions of this agreement and those imposed by other regulatory agencies. Unless otherwise notified, the Operator shall comply with the provision that offers the greatest protection to water quality, species of special concern and/or critical habitat.
6. A copy of this agreement shall be provided to the Contractor(s) who works within the stream zone of this project. A copy of this agreement and a copy of the project description, as submitted to the Department, must be available upon request at the work site. The Contractor(s) shall sign this agreement prior to working within the stream zone. The Contractor(s) or a designated crew supervisor(s) shall be on site the entire time a work crew is working near the stream zone. The supervisor(s) shall be completely familiar with the terms and conditions of this agreement and shall ensure compliance with all terms and conditions. The Department reserves the right to enter the project site at any time to ensure that there is compliance with the terms/conditions of this Agreement.
7. The Operator shall notify the Department within two working days of beginning work within the stream zone of Big Chico Creek. In addition, the Operator/Contractor shall notify the Department within two working days of the completion of work within the stream zone on this project.
8. When work in a flowing stream is unavoidable, the entire stream flow shall be diverted around or through the work area during the excavation and/or construction operations. Stream flow shall be diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code

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section 5937. Any temporary dam or other artificial obstruction constructed shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation. No other diversion method shall be used without prior authorization by the Department. If another diversion method is preferred, the operator must submit a plan detailing the desired diversion method. Authorization of any other diversion method shall be at the discretion of the Department. The temperature of the diverted water will not be allowed to become elevated such that it may be deleterious to aquatic organisms downstream. The dissolved oxygen concentration of the diverted water will not be allowed to drop to a level that may be deleterious to downstream aquatic life.

9. No trees that contain active nests of birds that are protected by the Migratory Bird Treaty Act shall be disturbed until all eggs have hatched and young birds have fledged without prior consultation and approval of a Department representative.
10. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. No native trees with a trunk diameter at breast height (DBH) in excess of four (4) inches shall be removed or damaged without prior consultation and approval of a Department representative. Using hand tools (clippers, chain saw, etc.); trees may be trimmed to the extent necessary to gain access to the work sites. All cleared material/vegetation shall be removed out of the riparian/stream zone.
11. Precautions to minimize turbidity/siltation shall be taken into account during project planning and implementation. This may require the placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to pass to downstream reaches. Passage of sediment beyond the sediment barrier(s) is prohibited. If any sediment barrier fails to retain sediment, corrective measures shall be taken. The sediment barrier(s) shall be maintained in good operating condition throughout the construction period and the following rainy season. Maintenance includes, but is not limited to, removal of accumulated silt and/or replacement of damaged silt fencing, coir logs, coir rolls, and/or straw bale dikes. The use of monofilament netting based erosion control blankets is **prohibited** within the stream zone or associated riparian areas. The Operator is responsible for the removal of non-biodegradable silt barriers (such as plastic silt fencing) after the disturbed areas have been stabilized with erosion control vegetation (usually after the first growing season). The Operator will remove the mesh or netting used to contain coir logs or rolls once the disturbed area has been stabilized if these logs or rolls are to left in the field to decompose. This netting poses an entrapment risk to native snake and raptor species that may be present in the area. Upon Department determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation, shall be halted until effective Department approved control devices are installed, or abatement procedures are initiated.
12. 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. Any of these materials, placed within or where they may enter a stream or lake, by the Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately. The Department shall be notified immediately by the Operator of any spills and shall be consulted regarding clean-up procedures.

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13. During construction, the contractor shall not dump any litter or construction debris within the stream zone. All construction debris and associated materials shall be removed from the work site upon completion of this project.
14. All exposed/disturbed areas and access points within the stream zone left barren of vegetation as a result of the construction activities shall be restored using native vegetation. Successful restoration efforts depend on proper site preparation, timing of seed/plug application; placement of plants; placement of erosion protection materials; supplemental watering and post application maintenance. Site preparation may include the application of an herbicide designed to kill weed seeds in the soil. Post seed application may include the use of broadcast straw punched into the soil with the use of a sheep's foot roller or other device. It is recommended that the Operator consult a native plant specialist for restoration planning. The California Native Grassland Association maintains a list of businesses that specialize in native grass products and services <http://www.cnga.org/>.
15. This agreement is not valid and work may not begin until the agreement is signed by a representative of the Department of Fish & Game. Stream alteration work authorized by this agreement expires five years following the date this agreement is signed by the Department. This agreement shall remain in effect for that time necessary to satisfy all required mitigation and monitoring measures.
16. Requests for Extensions (agreement renewal), Minor Amendments, and Major Amendments must be submitted in writing prior to expiration of the agreement or commencement of work on modified project plans. Extensions and Amendments are issued at the discretion of the Department. Please see the current fee schedule to determine the appropriate fee.
17. The Department may take enforcement action and reserves the right to suspend and/or revoke this agreement if the Department determines that the circumstances warrant. The circumstances that could require these Department actions include, but are not limited to, the following: A) Failure to comply with the terms/conditions of this agreement. B) The information provided by the operator in support of the agreement/notification is determined by the Department to be incomplete, or inaccurate. C) When new information becomes available to the Department representative(s) that was not known when preparing the original terms/conditions of this agreement. D) The project as described in the notification, agreement, or amendment has changed, or conditions affecting fish and wildlife resources change.
18. If, in the opinion of the Department, conditions arise or change in such a manner as to be considered deleterious to aquatic life, operations shall cease until corrective measures are taken.
19. It is understood that the Department enters into this agreement for purposes of establishing protective features for fish and wildlife, in the event that a project is implemented. The decision to proceed with the project is the sole responsibility of the Operator, and is not required by this agreement. It is agreed that all liability and/or incurred costs related to or arising out of the Operator's project and the fish and wildlife protective conditions of this agreement, remain the sole responsibility of The Operator. The Operator agrees to hold harmless and defend the State of California and the Department of Fish and Game against any

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related claim made by any party or parties for personal injury or other damage.

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SIGNATURE PAGE

The Operator, as designated by the signature on this agreement, shall be responsible for the execution of all elements of this agreement. A copy of this agreement must be provided to contractor and subcontractors and must be in their possession at the work site.

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 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.

This agreement is not valid and work may not begin until the agreement is signed by a representative of the Department of Fish & Game.

Operator: Roger Cole Date 8/6/08
Title: Technical Project Manager
Organization: Streaminders - chapter the Isaac Walton League

Contractor: _____ Date _____
Title: _____
Company: _____

Department Representative: Sandra Morey, Regional Manager Date _____

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