**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**
REGION 1 – NORTHERN REGION
619 Second Street
Eureka, CA 95501

**STREAMBED ALTERATION AGREEMENT**
EPIMS-HUM-21613-R1
Unnamed Tributaries to Supply Creek, Tributary to the Trinity River, Tributary to the Klamath River and the Pacific Ocean

SAMANTHA PHILLIPS
707 REALTY LLC
WILLOW CREEK AGREEMENT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Samantha Phillips (Permittee).

## RECITALS

WHEREAS, pursuant to Fish and Game Code section 1602, Permittee notified CDFW on July 26, 2021 that Permittee intends to complete the project described herein.

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

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

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

## PROJECT LOCATION

The project to be completed is located within the Supply Creek watershed, approximately 5.8 miles west northwest of the town of Willow Creek, County of Humboldt, State of California, Assessor's Parcel Number 522-024-001; Latitude 40.981761 N and Longitude 123.729757 W, at the parcel center.

## PROJECT DESCRIPTION

The project includes 17 encroachments on unnamed tributaries to Supply Creek (Table 1). Sixteen projects are to upgrade failing and undersized stream crossings. The other project is to divert surface water to irrigate cannabis. Work for the stream crossings will include excavation, culvert removal, culvert replacement, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion. Work for the water diversion will include installation, use and maintenance of the water diversion infrastructure in compliance with the Agreement.

**Table 1**. Project Encroachments with Description

| ID | Latitude/Longitude | Description |
|---|---|---|
| Crossing-1 | 40.98077, -123.73331 | Existing rock ford crossing on an unused road segment. No work proposed in the notification. |
| Crossing-2 | 40.98122, -123.72955 | Replace existing 18” diameter culvert with minimum 24” diameter culvert set at grade and installation of adequate rock armoring. |
| Crossing-3 | 40.98016, -123.72776 | Install rolling dips on road approaches to hydrologically disconnect an existing 42” diameter culvert installed at stream crossing under LSAA 1600-2013-0156-R1. |
| Crossing-4 | 40.97953, -123.72581 | Replace existing 42” diameter culvert with minimum 60” diameter culvert and installation of adequate rock armoring. |
| Crossing-5 | 40.9797, -123.7237 | Replace existing 30” diameter culvert with minimum 60” diameter culvert set at grade and installation of adequate rock armoring. |
| Crossing-6 | 40.9818, -123.7232 | Replace existing 30” diameter culvert with minimum 72” diameter culvert set at grade and installation of adequate rock armoring. |
| Crossing-7 | 40.9848, -123.7213 | Replace existing 18” diameter culvert with minimum 54” diameter culvert set at grade and installation of adequate rock armoring. |
| Crossing-8 | 40.9839, -123.7214 | Replace existing 18” diameter culvert with minimum 30” diameter culvert set at grade and installation of adequate rock armoring. |
| Crossing-9 | 40.9821, -123.7226 | Replace existing 32” diameter culvert with minimum 72” diameter culvert set at grade and installation of adequate rock armoring. |
| Crossing-10 | 40.9789, -123.7231 | Replace existing 30” diameter culvert with minimum 56” diameter culvert set at grade and installation of adequate rock armoring. |
| Crossing-11 | 40.9786, -123.7263 | Replace existing 32” diameter culvert with minimum 60” diameter culvert set at grade and installation of adequate rock armoring. |
| Crossing-12 | 40.97904, -123.72918 | Replace existing 18” diameter culvert with minimum 42” diameter culvert set at grade, and sufficiently rocked at inlet and outlet to prevent erosion or destabilizing the adjacent landslide. |
| Crossing-13 | 40.97918, -123.72928 | Rock armor inboard ditch intercepting flow from a seasonal stream, in an unstable landslide feature above, to Crossing 12, to minimize erosion. |

| | | |
|---|---|---|
| Crossing-14 | 40.9782, -123.7333 | Replace existing 24” diameter culvert with minimum 36” diameter culvert set at grade and installation of adequate rock armoring. |
| Crossing-15 | 40.9785, -123.7354 | Replace existing 18” diameter culvert with minimum 30” diameter culvert set at grade. Spring shall be protected and inboard ditch sufficiently rocked to cleanly pass flow through the culvert. |
| Crossing-16 | 40.9790, -123.7359 | Replace existing failed 24” diameter culvert with minimum 24” diameter culvert set at grade. Rock inboard ditch that are draining upslope wetlands into the stream channel. |
| POD 1 | 40.9813, -123.7296 | Installation, use and maintenance of surface water diversion for irrigating cannabis. |

## PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include Chinook Salmon (*Oncorhynchus tshawytscha*), Coho Salmon (*O. kisutch*), Steelhead Trout (*O. mykiss*), Western Brook Lamprey (*Lampetra richardsoni*), Southern Torrent Salamander (*Rhyacotriton variegatus*), Pacific Giant Salamander *(Dicamptodon tenebrosus)*, Foothill Yellow-legged Frog *(Rana boylii),* Coastal Tailed Frog (*Ascaphus truei*), as well as, other aquatic and riparian amphibian, reptile, aquatic invertebrate, mammal and bird species.

The adverse effects the project could have on the fish or wildlife resources identified above include:

**Impacts to water quality:**
increased water temperature;
reduced instream flow;
temporary increase in fine sediment transport;

**Impacts to bed, channel, or bank and direct effects on fish, wildlife, and their habitat:**
loss or decline of riparian habitat;
direct impacts on benthic organisms;

**Impacts to natural flow and effects on habitat structure and process:**
cumulative effect when other diversions on the same stream are considered;
diversion of flow from activity site;
direct and/or incidental take;
indirect impacts;
impediment of up- or down-stream migration;
water quality degradation; and
damage to aquatic habitat and function.

## MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

### 1. Administrative Measures

Permittee shall meet each administrative requirement described below.

1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the 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 the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.

1.3 Adherence to Existing Authorizations. All water diversion facilities that the Permittee owns, operates, or controls shall be operated and maintained in accordance with current law and applicable water rights.

1.4 Change of Conditions and Need to Cease Operations. If conditions arise, or change, in such a manner as to be considered deleterious by CDFW to the stream or wildlife, operations shall cease until corrective measures approved by CDFW are taken. This includes new information becoming available that indicates that the bypass flows and diversion rates provided in this agreement are not providing adequate protection to keep aquatic life downstream in good condition or to avoid “take” or “incidental take” of federal or State listed species.

1.5 Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.

1.6 Project Site Entry. Permittee agrees that CDFW personnel may enter the project site at any time to verify compliance with the Agreement.

1.7 Agreement Compliance. The proposed work shall comply with the measures of this Agreement. Failure to comply with these measures shall result in suspension or revocation of this agreement.

1.8 CDFW Notification of Work Initiation and Completion. The Permittee shall contact CDFW within the seven-day period preceding the beginning of work permitted by this Agreement. Information to be disclosed shall include Agreement number, and the anticipated start date. Subsequently, the Permittee shall notify CDFW no later than seven (7) days after the project is fully completed.

1.9 Permitted Project Activities. Except where otherwise stipulated in this Agreement, all work shall be in accordance with the Permittee Notification received on July 26, 2021, together with all maps, BMP's, photographs, drawings, and other supporting documents submitted with the Notification.

1.10 Work Completion. The proposed work shall be completed by no later than **October 1, 2023**. A notice of completed work, shall be submitted to CDFW, via email, within seven (7) days of project completion.

## 2. Avoidance and Minimization Measures

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

2.1 Work Period. All work, not including diversion of water, shall be confined to the period **June 15 through October 1** of each year. Work within the active channel of a stream shall be restricted to periods of **dry weather**. Precipitation forecasts and potential increases in stream flow shall be considered when planning construction activities. Construction activities shall cease, and all necessary erosion control measures shall be implemented prior to the onset of precipitation.

2.2 Extension of the Work Period. If weather conditions permit, and the Permittee wishes to extend the work period after October 1, a written request shall be made to CDFW at least 5-working days before the proposed work period variance. Written approval (letter or e-mail) for the proposed time extension must be received from CDFW prior to activities continuing past October 1.

2.3 Incidental Take. This Agreement does not allow for the take, or incidental take of any state or federal listed threatened or endangered listed species.

### Vegetation Management

2.4 Minimum Vegetation Removal. No native riparian vegetation shall be removed from the bank of the stream, except where authorized by CDFW. Permittee shall limit the disturbance or removal of native vegetation to the minimum necessary to achieve design guidelines and standards for the Authorized Activity. Permittee shall take precautions to avoid damage to vegetation outside the work area.

2.5 Vegetation Management. Permittee shall limit vegetation management (e.g., trimming, pruning, or limbing) and removal for the purpose of stream crossing or diversion infrastructure placement/maintenance to the use of hand tools. Vegetation management shall not include treatment with herbicides.

### Water Diversion

2.6 Maximum Diversion Rate. The maximum instantaneous diversion rate from the water intake shall not exceed **three (3) gallons per minute** (gpm) at any time.

2.7 Bypass Flow. The Permittee shall pass **80% of the flow** at all times to keep all aquatic species including fish and other aquatic life in good condition below the point of diversion.

2.8 Seasonal Diversion Minimization. Permittee shall confine the period of diversion to **November 1 through March 31**. Water shall be diverted only if the Permittee can adhere to measures 2.6 and 2.7 of this Agreement.

2.9 Measurement of Diverted Flow. Permittee shall install and maintain an adequate measuring device for measuring the instantaneous and cumulative rate of diversion. This measurement shall begin as soon as this Agreement is signed by the Permittee. The device shall be installed within the flow of diverted water. The Permittee shall maintain records of diversion, and provide information including, but not limited to the following:

2.9.1 The date diversion occurred.

2.9.2 The amount of water used per day for cannabis cultivation separated out from the amount of water used for other irrigation purposes and other uses of water (e.g., domestic use or fire protection).

2.9.3 Permittee shall make available for review at the request of the department the daily diversion records required by the State Water Resources Control Board (Board) in Attachment A to the Board's Cannabis Cultivation Policy (October 17, 2017), No. 84, pages 40-41 (see Cal. Code Regs., tit. 23, § 2925).

2.10 Water Management Plan. The Permittee shall submit a Water Management Plan no later than **sixty days** from the time this Agreement is made final that describes how compliance will be achieved under this Agreement. The Water Management Plan shall include details on water storage, water conservation, or other relevant material to maintain water needs in coordination with forbearance and bypass flow requirements. The Water Management Plan shall include a brief narrative describing water use on the property, photographs to support the narrative, and water use calculations to ensure compliance with this Agreement. The Water Management Plan shall be submitted to CDFW via EPIMS.

2.11 Intake Structure. No polluting materials (e.g., particle board, plastic sheeting, bentonite) shall be used to construct or screen, or cover the diversion intake structure.

2.12 Intake Structure Placement. Infrastructure installed in the streambed (e.g., cistern or spring box) shall not exceed 20 percent of the active channel width and shall not be located in the deepest portion of the channel. The depth of the intake shall be no greater than one foot (6 inches) below the streambed.

2.13 Intake Screening. The Permittee shall regularly inspect, clean, and maintain screens in good condition.

2.13.1 The water intake screens shall be securely attached (e.g., threaded or clamped) to the intake line.

2.13.2 A water intake screen with round openings shall not exceed 3/32-inch diameter; a screen with square openings shall not exceed 3/32-inch measured diagonally; and a screen with slotted openings shall not exceed 0.069 inches in width. Slots must be evenly distributed on the screen area.

2.13.3 The water intake screen may be constructed of any rigid material, perforated, woven, or slotted. Stainless steel or other corrosion-resistant material is recommended to reduce clogging due to corrosion. Care should be taken not to use materials deemed deleterious to aquatic species.

2.13.4 The water intake screen shall be placed in fast moving water with the long axis of the screen parallel to the streamflow. The water intake shall not be placed in pool habitat.

2.14 Intake Shall Not Impede Aquatic Species Passage. The water diversion structures shall be designed, constructed, and maintained such that they do not constitute a barrier to upstream or downstream movement of aquatic life.

2.15 Diversion Infrastructure Plan (DIP). Prior to diverting water, the Permittee shall submit a DIP to CDFW for review and approval. The DIP shall include a narrative describing the different elements of the water diversion infrastructure, supporting photographs and/or diagrams, and justification of how compliance will be achieved under this Agreement.

2.16 Diversion Intake Removal. Permittee shall plug, cap, block (e.g., with a shut-off valve), or remove all intakes at the end of each diversion season.

2.17 Heavy Equipment Use. No heavy equipment shall be used in the excavation or replacement of the existing water diversion structure. The Permittee shall use hand tools or other low impact methods of removal/replacement. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.

2.18 Water Conservation. The Permittee shall make best efforts to minimize water use, and to follow best practices for water conservation and management.

2.19 Water Storage. All water storage facilities (WSFs) (e.g., reservoirs, storage tanks, mix tanks, and bladders tanks) must be located outside the active 100-year floodplain and outside the top of bank of a stream. Covers/lids shall be securely affixed to water tanks at all times to prevent potential entry by wildlife. Permittee

shall cease all water diversion at the point of diversion when WSFs are filled to capacity.

2.20 Water Storage Maintenance. WSFs shall have a float valve to shut off the diversion when tanks are full to prevent overflow. The Permittee shall install any other measures necessary to prevent exorbitant use or waste of water. Water shall not leak, overflow, or overtop WSFs at any time. Permittee shall regularly inspect all WSFs and infrastructure used to divert water to storage and use and repair any leaks.

2.21 State Water Code. This Agreement does not constitute a valid water right. The Permittee shall comply with State Water Code sections 5100 and 1200 et seq. as appropriate for the water diversion and water storage. The application for this registration is found at: http://www.swrcb.ca.gov/waterrights/publications_forms/forms/docs/sdu_registration.pdf.

**Stream Crossings**

2.22 Stream Protection. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other deleterious material from project activities shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into the stream. All project materials and debris shall be removed from the project site and properly disposed of off-site upon project completion.

2.23 Equipment Maintenance. Refueling of machinery or heavy equipment, or adding or draining oil, lubricants, coolants or hydraulic fluids shall not take place within stream bed, channel and bank. All such fluids and containers shall be disposed of properly off-site. Heavy equipment used or stored within stream bed, channel and bank shall use drip pans or other devices (e.g., absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.

2.24 Hazardous Spills. Any material, which could be hazardous or toxic to aquatic life and enters a stream (i.e. a piece of equipment tipping-over in a stream and dumping oil, fuel or hydraulic fluid), the Permittee shall immediately notify the California Emergency Management Agency State Warning Center at 1-800-852-7550, and immediately initiate clean-up activities. CDFW shall be notified by the Permittee within 24 hours at 707-445-6493 and consulted regarding clean-up procedures.

2.25 Dewatering.

2.25.1 Stream Diversion. Only when work in a flowing stream is unavoidable (e.g., perennial streams), Permittee shall divert the stream flow around or through the work area during 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.

2.25.2 Maintain Aquatic Life. When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, Permittee shall allow sufficient water at all times to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code §5937.

2.25.3 Stranded Aquatic Life. The Permittee shall check daily for stranded aquatic life as the water level in the dewatering area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas. Capture methods may include fish landing nets, dip nets, buckets and by hand. Captured aquatic life shall be released immediately in the closest suitable aquatic habitat adjacent to the work site. This condition does not allow for the take or disturbance of any State or federally listed species, or State listed species of special concern. The Department staff who prepared this agreement shall be contacted immediately if any of these species are detected.

2.25.4 Coffer Dams. Prior to the start of construction, Permittee shall divert the stream around or through the work area and the work area shall be isolated from the flowing stream. To isolate the work area, water tight coffer dams shall be constructed upstream and downstream of the work area and water diverted, through a suitably sized pipe, from upstream of the upstream coffer dam and discharge downstream of the downstream coffer dam. Coffer dams and the stream diversion system shall remain in place and functional throughout the construction period. Coffer dams or stream diversions that fail for any reason shall be repaired immediately.

2.25.5 Minimize Turbidity, Siltation, and Pollution. Permittee shall use only clean, non-erodible materials, such as rock or sandbags that do not contain soil or fine sediment, to construct any temporary stream flow bypass. Permittee shall divert stream flow around the work site in a manner that minimizes turbidity, siltation, and pollution, and does not result in erosion or scour downstream of the diversion.

2.25.6 Remove any Materials upon Completion. Permittee shall remove all materials used for the temporary stream flow bypass after the Authorized Activity is completed.

2.25.7 Restore Normal Flows. Permittee shall restore normal flows to the effected stream immediately upon completion of work at that location.

2.26 Excavated Fill. Excavated fill material shall be placed in upland locations where it cannot deliver to a watercourse. To minimize the potential for material to enter the watercourse during the winter period, all excavated and relocated fill material shall be tractor contoured (to drain water) and tractor compacted to effectively incorporate and stabilize loose material into existing road and/or landing features.

2.27 Runoff from Steep Areas. The Permittee shall make preparations so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential or contained behind erosion control structures. Erosion control structures such as straw bales and/or siltation control fencing shall be placed and maintained until the threat of erosion ceases. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.

2.28 Culvert Installation.

2.28.1 The project is located in a moderate to very high Fire Hazard Severity Zone as designated by CAL FIRE. CDFW recommends culvert materials consist of corrugated metal pipe (CMP). Use of High Density Polyethylene (HDPE) pipe is not recommended due to risk of ignition and failure.

2.28.2 Existing fill material in the crossing shall be excavated down vertically to the approximate original channel and outwards horizontally to the approximate crossing hinge points (transition between naturally occurring soil and remnant temporary crossing fill material) to remove any potential unstable debris and voids in the older fill prism.

2.28.3 Culvert shall be installed to grade (not perched or suspended), aligned with the natural stream channel, and extend lengthwise completely beyond the toe of fill. If culvert cannot be set to grade, it shall be oriented in the lower third of the fill face, and a downspout or energy dissipator (such as boulders, rip-rap, or rocks) shall be installed above or below the outfall as needed to effectively control stream bed, channel, or bank erosion (scouring, headcutting, or downcutting). The Permittee shall ensure basins are not constructed and channels are not be widened at culvert inlets.

2.28.4 Culvert bed shall be composed of either compacted rock-free soil or crushed gravel. Bedding beneath the culvert shall provide for even distribution of the load over the length of the pipe and allow for natural settling and compaction to help the pipe settle into a straight profile. The crossing backfill materials shall be free of rocks, limbs, or other debris that could allow water to seep around the pipe and shall be compacted.

2.28.5 Culvert inlet, outlet (including the outfall area), and fill faces shall be armored where stream flow, road runoff, or rainfall energy is likely to erode fill material and the outfall area.

2.28.6 Permanent culverts shall be sized to accommodate the estimated 100-year flood flow [i.e. ≥1.0 times the width of the bankfull channel width or the 100-year flood size, whichever is greater], including debris, culvert embedding, and sediment loads.

2.29 Rock Armor Placement.

2.29.1 No heavy equipment shall enter the wetted stream channel.

2.29.2 No fill material, other than clean rock, shall be placed in the stream channel.

2.29.3 Rock shall be sized to withstand washout from high stream flows and extend above the ordinary high water level.

2.29.4 Rock armoring shall not constrict the natural stream channel width and shall be keyed into a footing trench with a depth sufficient to prevent instability.

2.30 Road Approaches. The Permittee shall treat road approaches to new or re-constructed permanent crossings *on Class I and II watercourses* to minimize erosion and sediment delivery to the watercourse. Permittee shall ensure road approaches are hydrologically disconnected to the maximum extent feasible to prevent sediment from entering the crossing site, including when a Stream Crossing is being constructed or reconstructed. Road approaches shall be armored from the crossing for a minimum of *50* feet in both directions, or to the nearest effective water bar or point where road drainage does not drain to the crossing, with durable rock, compacted grindings, pavement, or chip-seal.

2.31 Project Inspection. The Project shall be inspected by a qualified professional to ensure that the stream crossings were installed as designed. A copy of the **Project Inspection Report**, including photographs of each site, shall be submitted to CDFW within 90 days of completion of this project.

**Erosion Control and Pollution**

2.32 Erosion Control. Permittee shall use erosion control measures throughout all work phases where sediment runoff threatens to enter a stream, lake, or other Waters of the State.

2.33 Seed and Mulch. Upon completion of construction operations and/or the onset of wet weather, Permittee shall stabilize exposed soil areas within the work area by applying mulch and seed. Permittee shall restore all exposed or disturbed areas and access points within the stream and riparian zone by applying local native and weed free erosion control grass seeds. Locally native wildflower and/or shrub seeds may also be included in the seed mix. Permittee shall mulch restored areas using at least two to four inches of weed-free clean straw or similar biodegradable mulch over the seeded area. Alternately, Permittee may cover seeding with jute netting, coconut fiber blanket, or similar non-synthetic monofilament netting erosion control blanket.

2.34 Erosion and Sediment Barriers. Permittee shall monitor and maintain all erosion and sediment barriers in good operating condition throughout the work period and the following rainy season, defined herein to mean October 15 through June 15. Maintenance includes, but is not limited to, removal of accumulated sediment and/or replacement of damaged sediment fencing, coir logs, coir rolls, and/or straw

bale dikes. If the sediment barrier fails to retain sediment, Permittee shall employ corrective measures, and notify the department immediately.

2.35 Prohibition on Use of Monofilament Netting. To minimize the risk of ensnaring and strangling wildlife, Permittee shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) monofilament netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.

2.36 Site Maintenance. Permittee shall be responsible for site maintenance including, but not limited to, re-establishing erosion control to minimize surface erosion and ensuring drainage structures and altered streambeds and banks remain sufficiently armored and/or stable.

2.37 Cover Spoil Piles. Permittee shall have readily available erosion control materials such as wattles, natural fiber mats, or plastic sheeting, to cover and contain exposed spoil piles and exposed areas in order to prevent sediment from moving into a stream or lake. Permittee shall apply and secure these materials prior to rain events to prevent loose soils from entering a stream, lake, or other Waters of the State.

2.38 No Dumping. Permittee shall not deposit, permit to pass into, or place where it can pass into a stream, lake, or other Waters of the State any material deleterious to fish and wildlife, or abandon, dispose of, or throw away within 150 feet of a stream, lake, or other Waters of the State any cans, bottles, garbage, motor vehicle or parts thereof, rubbish, litter, refuse, waste, debris, or the viscera or carcass of any dead mammal, or the carcass of any dead bird.

## 3. Reporting Measures

3.1 Measurement of Diverted Flow. Copies of the **Water Diversion Records** (Measure 2.9) shall be submitted to CDFW, via EPIMS, no later than **December 31** of each year.

3.2 Water Management Plan. The Permittee shall submit a **Water Management Plan** (Measure 2.10) within **60 days** from the effective date of this agreement. The Water Management Plan shall be submitted to CDFW via EPIMS.

3.3 Diversion Infrastructure Plan. The Permittee shall **allow 60 days for CDFW review and approval** after submittal of a Diversion Infrastructure Plan (Measure 2.15). This document shall be submitted to CDFW via EPIMS.

3.4 Project Inspection. The Permittee shall submit the **Project Inspection Report** (Measure 2.31) to CDFW via EPIMS.

## CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be submitted through EPIMS as instructed by CDFW.

To Permittee:

Samantha Phillips
707 Realty LLC
EPIMS-HUM-21613-R1
Willow Creek Agreement
samantha@mojomountain.com

To CDFW:

Department of Fish and Wildlife
Northern Region
EPIMS-HUM-21613-R1
Willow Creek Agreement
EPIMS.R1C@wildlife.ca.gov

## LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

## SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

## ENFORCEMENT

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

## OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with, or 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. For example, if the project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

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 Fish and Game Code including, but not limited to, Fish and Game Code sections 2050 *et seq*. (threatened and endangered species), section 3503 (bird nests and eggs), section 3503.5 (birds of prey), section 5650 (water pollution), section 5652 (refuse disposal into water), section 5901 (fish passage), section 5937 (sufficient water for fish), and section 5948 (obstruction of stream).

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

## AMENDMENT

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall log into EPIMS and submit to CDFW a completed CDFW “Amendment & Extension” form. Permittee shall include with the completed form, payment of the corresponding amendment fee identified in CDFW’s current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

## TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall log into EPIMS and submit to CDFW a completed CDFW "Amendment & Extension" form. Permittee shall include with the completed form, payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

## EXTENSIONS

In accordance with Fish and Game Code section 1605, subdivision (b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall log into EPIMS and submit to CDFW a completed CDFW "Amendment & Extension' form. Permittee shall include with the completed form, payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with Fish and Game Code section 1605, subdivisions (b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code § 1605, subd. (f)).

## EFFECTIVE DATE

The 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 Fish and Game Code section 711.4 filing fee listed at https://www.wildlife.ca.gov/Conservation/CEQA/Fees.

## TERM

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

## AUTHORITY

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

## AUTHORIZATION

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

## CONCURRENCE

Through the electronic signature by the permittee or permittee's representative as evidenced by the attached concurrence from CDFW's Environmental Permit Information Management System (EPIMS), the permittee accepts and agrees to comply with all provisions contained herein.

**The EPIMS concurrence page containing electronic signatures must be attached to this agreement to be valid.**