

18-0829

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



**LAKE AND STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION NO. 1600-2017-0173-R4  
REDINGER LAKE AND UNNAMED TRIBUTARY TO SAN JOAQUIN RIVER  
FRESNO AND MADERA COUNTIES

**COUNTY OF FRESNO**  
**DEPARTMENT OF PUBLIC WORKS AND PLANNING**  
MOHAMMAD ALIMI, PE – DESIGN DIVISION MANAGER  
2220 TULARE STREET, 7<sup>TH</sup> FLOOR  
FRESNO, CALIFORNIA 93721

**ITALIAN BAR ROAD BRIDGE REPLACEMENT PROJECT (PROJECT)**

This Lake and Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and the County of Fresno (referred to as Permittee), represented by Mohammad Alimi, PE, Design Division Manager.

**RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) Section 1602, Permittee notified CDFW on July 14, 2017, 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 is located within Redinger Lake and an unnamed tributary to the San Joaquin River in Fresno and Madera Counties at the Italian Bar Road crossing, at approximately 63299 Italian Bar Road, North Fork, State of California; Township 9 South, Range 23 East, Section 12, United States Geological Survey (USGS) map Cascadel Point, MDB&M; Latitude 37.158560, Longitude -119.405448 (Figure 1); Assessor's Parcel Numbers 060-447-001 (Madera County) and 116-120-12 (Fresno County).

## PROJECT DESCRIPTION

The Project includes activities related to the replacement of the existing one-lane bridge with a 205-foot-long two-lane bridge on Italian Bar Road over Redinger Lake. The new bridge will be constructed adjacent to the existing bridge on the downstream side.

Two staging areas will be created next to Italian Bar Road on the north side of the lake. One staging area is west of Italian Bar Road in a small unpaved parking area that will be enlarged in part by temporarily placing rock into a cove in the lake and an ephemeral stream, approximately 420 feet downstream of the existing bridge. The area to be filled is approximately 30 feet by 85 feet and will require approximately 200 cubic yards of rock that will likely be sourced from nearby upland areas for the realignment of Italian Bar Road. If onsite rock is not available, then offsite rock with an average weight of 75 pounds will be used. An existing corrugated metal pipe (CMP) culvert in an unnamed ephemeral stream under Italian Bar Road will be extended by placing two-foot diameter CMP extensions on both sides of the existing culvert. The culvert extension on the east side of the road at the second staging area will be approximately 35 feet long and the culvert extension on the west side of the road will be approximately 40 feet long. Some trenching may be required to fit the culvert extensions into the stream. The trenches will be approximately four feet wide and five feet deep and up to 75 feet long. The culvert will outfall onto the rock deposited into the lake and stream in the second staging area. The two staging areas will be cleared of vegetation and graded with side slopes no steeper than 1:1.

Installation of a pier in the lake bed will occur in the fall (October to December) when water levels are lowest, and will require grading an area approximately 25 feet by 30 feet to create a work pad in the lake bed. A graded dirt access road to the work pad approximately 100 feet long and 10 feet wide will be created from the north bank into the lake bed. The work pad will be isolated (if surface water present) with a U-shaped dam created with concrete K-rails and/or gravel bags covered in plastic sheeting. Residual water left in the work area will be pumped to a dry area to percolate. A seven-foot diameter shaft will be drilled approximately 30 feet deep with a temporary pipe casing inserted, if needed. A rebar cage will be placed in the shaft and concrete will be pumped into the shaft. A 60-inch diameter and approximately 33-foot high concrete column will then be formed and poured on top of the shaft.

Construction of the abutments, wingwalls, and retaining walls will be done under naturally dry conditions without dewatering. The abutments will require excavation of rock for the footings and then the abutment footings, abutments, and wingwalls will be formed and poured. The footing for Abutment 1 (on the south or Fresno County side of the bridge) will be approximately 27 feet long, 13 feet wide, and three feet high. The right wingwall will be approximately 7 feet long, two feet thick, and 23 feet high and the left wingwall will be approximately 20 feet long, two feet thick, and three to 23 feet high. A rip rap field consisting of rock with an average diameter of 12 inches approximately 15 feet by 100 feet and keyed to a depth of three feet will be placed next to Abutment 1.

The footing for Abutment 3 (on the north or Madera County side of the bridge) will be approximately 32 feet long, 11 feet wide, and three feet high. The right wingwall will be approximately 20 feet long, two feet thick, and three to 15 feet high; the left wingwall will be approximately nine feet long, two feet thick, and 15 feet high; and the middle wingwall will be approximately 14 feet long, one foot thick, and three to 15 feet high. A rip rap field consisting of rock with an average diameter of 24 inches approximately 55 feet by 60 feet and keyed to a depth of approximately six feet will be placed next to Abutment 3.

Retaining walls will be placed behind the two abutments. The retaining wall 1 behind Abutment 1 will be constructed by excavating rock for the footing and then forming and pouring the footing and stem wall. The footing will be approximately eight feet long, seven to 16 feet wide, and two feet high. The retaining wall behind Abutment 3 will be constructed by over excavating soil below the footing, placing and compacting a layer of aggregate base, and then forming and pouring the footing and stem wall. The footing will be approximately 12 to 24 feet long, seven to 11 feet wide, and two feet high. After the bridge foundation structures are completed, girders will be braced and erected, falsework will be installed, and two concrete spans will be poured and cured to create the 205-foot-long bridge deck.

After the new bridge is constructed, demolition of the existing bridge will occur during the low flow season (October to December). The bridge superstructure will be removed using cranes staged near the abutments on the old road. The existing abutments will then be removed and the old approach roads excavated. To remove the piers and footings, the same access road that was used for the new bridge will be utilized for access to the lake bed to remove the concrete structures. After the demolition and removal of the bridge is complete, the lake bed and bank will be graded back to the original contours. The rock and culvert extensions placed in the staging areas will also be removed and the areas will be graded to original contours, stabilized, and re-vegetated.

Equipment to be used includes backhoe, bobcat, bulldozer, loader, crane, drill rig, dump truck, excavator, forklift, front-end loader, generator, grader, haul truck, roller/compactor, rubber-tired loader, scraper, truck with seed sprayer, and water truck.

## **PROJECT IMPACTS**

Approximately 25 trees and shrubs will be removed according to the table below. The Project will temporarily impact approximately 0.645 acre and permanently impact approximately 0.014 acre along 100 linear feet of Redinger Lake and an unnamed ephemeral stream. Approximately 563 cubic yards of soil will be excavated, with approximately 440 cubic yards of the soil re-used onsite as fill. Approximately 523 cubic yards of concrete and 425 cubic yards of rock slope protection will be used.

Tree Species to be Removed	Number	Diameters at Breast Height (inches)
California buckeye ( <i>Aesculus californica</i> )	4	6 to 10
White alder ( <i>Alnus rhombifolia</i> )	6	4 to 6
Buttonwillow ( <i>Cephalanthus occidentalis</i> )	2	3 and 4
California coffeeberry ( <i>Frangula californica</i> )	1	5
Gray pine ( <i>Pinus sabiniana</i> )	1	20
Interior live oak ( <i>Quercus wislizeni</i> )	2	4 and 5
Willow ( <i>Salix</i> sp.)	9	4 to 10

Other potential impacts related to disturbance during Project implementation include but are not limited to those resulting from noise and vibration; trampling/crushing of animals, plants, and habitat features; changes in flow patterns; erosion resulting from vegetation removal and ground disturbing activity; permanent and temporary placement of fill or spoil material; surface water contact with construction-related materials; pollution caused by leaking or malfunctioning vehicles or equipment; and introduction of nonnative species.

This Agreement is intended to avoid, minimize, and mitigate adverse impacts to the fish and wildlife resources that could occupy the Project area and the adjacent habitat. Absent implementation of the Protective Measures required by this Agreement, the following species and their habitat types could potentially be impacted: the State endangered and fully protected bald eagle (*Haliaeetus leucocephalus*), the State fully protected golden eagle (*Aquila chrysaetos*) and ringtail (*Bassariscus astutus*), the State species of special concern western pond turtle (*Actinemys marmorata*), and native bat species, as well as other birds, mammals, fish, reptiles, amphibians, invertebrates, and plants that compose the local riparian ecosystem.

## 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, all 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 all 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.
  - (a) This Agreement does not authorize the “take” (defined in Fish and Game Code §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. All such take shall require separate permitting. Liability for any take of such listed species remains the separate responsibility of Permittee for the duration of the Project.
  - (b) Permittee shall take prudent measures to ensure that all take of threatened and endangered species is avoided. Permittee acknowledges and fully understands that it does not have State incidental take authority. Permittee shall immediately notify CDFW of the discovery of any such threatened or endangered species prior to and during Project implementation.
- 1.7 Property Not Owned by Permittee. To the extent that the Protective Measures of this Agreement provide for activities on another owner’s property, they are agreed to with the understanding that Permittee shall first acquire the legal right to enter.
- 1.8 Work Schedule. Permittee shall submit a work schedule to CDFW prior to beginning any activities covered by this Agreement. Permittee shall also notify CDFW upon the completion of the activities covered by this Agreement.
- 1.9 Training. Prior to starting any activity within the lake or stream bed or bank, all employees, contractors, 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 noncompliance. Permittee shall maintain a sign-in sheet that includes the printed and signed name of each attendee, in addition to the name and qualifications of the person providing

training, a copy of training materials, and the date of the training. Permittee shall provide this training documentation to CDFW within one week of the training.

## **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 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. Prior to any activity within the stream or lake, 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. Work completed under this Agreement shall be limited to this defined area only. Flagging shall be maintained for the duration of the Project. All areas within the stream and lake beyond the identified work area limits shall be considered Environmentally Sensitive Areas and shall not be disturbed.
- 2.3 Listed Species and Other Special Status Species.
  - (a) Pre-activity surveys for special status species shall be conducted by a qualified biologist within 30 days prior to commencement of each Project activity (i.e., each year, if all activities cannot be completed in one year). Surveys shall be conducted on the Project work area and all access routes to avoid and minimize incidental take, confirm previous observations, identify any areas potentially occupied by listed or sensitive species, and clearly mark all resources to be avoided by Project activities. If State- or Federally-listed threatened or endangered species are found or could be impacted by the work proposed, Permittee shall notify CDFW of the discovery prior to commencement of Project activity. A revised Agreement and/or a State Incidental Take Permit may be necessary and an amended CEQA analysis may need to be conducted, before work can begin.
  - (b) Bald Eagle and Golden Eagle. No Project-related activities shall occur from February 1 through August 31 unless a qualified biologist with eagle survey experience conducts visual surveys for nesting activity of bald eagle and golden eagle within a ½-mile radius of the Project site no more than two (2) weeks before construction begins, for each year of project activity. Surveys shall be conducted at appropriate nesting times and concentrate on suitable nesting structures for each species. If active eagle nests are found, or eagle breeding behaviors are observed, no Project activities shall occur within ½ mile of the nest until after the breeding season has ended or the qualified biologist has determined and CDFW has confirmed in writing that the young have fledged and are no longer dependent on parental care of the nest for survival. CDFW may consider proposals for variances from this buffer when

there is a compelling biological or ecological reason to do so, and will provide any approval in writing. Permittee shall not commence Project activity within the buffer prior to receiving approval from CDFW.

No Project-related activities shall be completed from December 1 through March 31 unless a qualified biologist surveys for winter roosting activity of bald eagle and golden eagle within a ½-mile radius of the Project site no more than two (2) weeks prior to Project activities. If any wintering eagles are observed, a minimum ½-mile avoidance buffer shall be established and maintained around the roost site. A qualified biologist shall have the authority to stop Project activities that could affect the foraging or feeding behavior of any eagle. Permittee may request a modified buffer if a winter eagle roost is found and Permittee proposes alternate methods to minimize project impacts to eagles. CDFW may provide advance, written authorization for the use of a modified buffer. Permittee shall not commence Project activity within the buffer prior to receiving approval from CDFW.

- (c) Ringtail. If individuals of this species are discovered in the Project work area or within a 500-foot buffer during pre-activity surveys or at any time during Project activities, all Project activity shall cease or shall not commence, whichever applies, and the individuals shall be allowed to leave the Project area of their own volition before Project activity resumes. The individuals shall not be handled, harassed, or disturbed in any way. Permittee shall notify CDFW immediately if a ringtail is detected.
- (d) Western Pond Turtle. All western pond turtles discovered at a work area immediately prior to or during Project activities shall be allowed to move out of the work area of their own volition. If this is not feasible, they shall be captured by a qualified biologist and relocated out of harm's way to suitable habitat at least 100 feet upstream or downstream from the Project work area.

## 2.4 Fish and Wildlife.

- (a) If fish or wildlife is encountered during the course of Project implementation, said fish or wildlife shall be allowed to leave the Project work area unharmed.
- (b) To protect nesting birds, no Project activity shall be completed from February 15 through August 31 unless the following Avian Nesting Surveys are completed by a qualified biologist within 30 days prior to commencing Project activities.

**Due to their special status designations, separate avian survey and avoidance requirements are listed above for bald eagle and golden eagle (see Avoidance and Minimization Measure 2.3(b)).**

Birds of Prey: Survey for nesting activity of birds of prey within each Project work area and a 500-foot radius. If any active nests are

observed, these nests shall be protected by a minimum 500-foot avoidance buffer until the breeding season has ended or until a qualified biologist has determined that the young have fledged and are no longer reliant upon the nest or parental care for survival.

Other Avian Species: Survey for nesting activity within each Project work area and a 250-foot radius. If any nesting activity is found, Permittee shall protect nests and nest substrate (trees, shrubs, ground, or burrows) with a minimum 250-foot buffer until young have fledged and are no longer reliant on the nest site or parental care.

Swallows: If Project activity will occur during the nesting season, Permittee shall develop a Swallow Exclusion Plan for advance approval by CDFW prior to implementation. The Plan shall include methods to prevent swallows from initiating nesting on the existing bridge prior to starting Project activity, and shall include maintenance of screen or netting used to prevent swallows from accessing bridge structures suitable for nesting. If swallow nesting has already begun on the bridge structure, avoidance shall occur until fledging has been completed, according to "Other Avian Species", above.

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

- (c) Bat Species: Bats shall not be disturbed without specific notice to and consultation with CDFW. Pre-construction surveys shall be conducted within the Project work area by a qualified biologist within seven (7) days prior to the start of Project activity at the Italian Bar Road Bridge, during the appropriate time of day to maximize detectability to determine if bat species are roosting on the bridge. Surveys may include observational methods, echolocation monitoring, etc. to determine whether bats are present. A survey report shall be completed that includes, but is not limited to, the survey methodology and biologist qualifications and, if bats are present, the colony size, roost location, and other characteristics. If surveys confirm that bats daytime roost in areas that will be impacted by the Project, Permittee shall submit a Bat Exclusion Plan for CDFW for written approval to ensure that bats are not present when Project activity on the bridge commences. Permittee is advised that bat exclusion will not be approved by CDFW for a potential bat maternity colony.

## 2.5 Vegetation.

- (a) Prior to initiation of Project activities, Permittee shall identify and clearly mark all trees and shrubs to be removed, to prevent accidentally removing trees and shrubs that should not otherwise be affected.

- (b) Permittee shall document the number and species of all trees and shrubs that are four (4) inches in DBH or greater that are removed during Project activities. Trees and shrubs with a DBH of four (4) inches or greater that are removed shall be replaced by replanting appropriate native species at a 3:1 ratio (replaced to lost), except that heritage trees 24 inches or greater shall require replanting of like species at a 10:1 ratio. These numbers shall inform the replanting requirements in Compensatory Measure 3.1(a).
- (c) Permittee shall restrict the disturbance to grasses and herbaceous vegetation to the minimum amount necessary to complete the Project.
- (d) All invasive, exotic plant species that are disturbed during Project implementation shall be removed from the Project work area. Any tamarisk, arundo, or other exotic plant species shall be bagged and appropriately disposed of in a landfill. Exotic species shall not be used in mulching, composting, or otherwise placed in or around the Project work area.
- (e) Vegetation removed from the Project work area shall be disposed of at an appropriate and legal off-site location where the material cannot enter the stream channel (i.e., outside of the floodplain). No such material shall be stockpiled in the streambed, banks, or channel, except that native vegetation removed from the channel may be chipped and the chips used as mulch for disturbed soil sites in or near the Project work area.

## 2.6 Vehicles and Equipment.

- (a) Vehicles and equipment shall not be operated if flowing or standing water or saturated soil is present.
- (b) Vehicles, equipment, and other machinery shall be inspected for the presence of undesirable plant species and cleaned prior to entering the work area, to reduce the risk of introducing exotic, invasive species.
- (c) Vehicle access shall be limited to predetermined ingress and egress corridors on existing roads. All other areas adjacent to the work area shall remain off-limits to vehicles and equipment.
- (d) Any equipment or vehicles driven and/or operated within or adjacent to the stream or lake shall be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to aquatic and terrestrial life.
- (e) Staging and storage areas for equipment, materials, fuels, lubricants, and solvents shall be located outside of the stream and lake. Stationary equipment such as motors, pumps, generators, compressors and welders located within or adjacent to the stream or lake shall be positioned over drip-pans. Vehicles shall be moved away from the stream and lake prior to refueling and lubrication.

2.7 Structures. Permittee confirms that all structures and installed features are designed (i.e., size and alignment) and constructed such that they will not fail, will accommodate high (e.g., 100-year) flows, and will not cause long-term changes in water flows that adversely modify the existing upstream or downstream channel bed/bank contours (e.g., headcutting or down cutting), increase sediment deposition, or cause significant new erosion.

2.8 Fill/Spoil.

- (a) Excavated soil shall be only temporary stockpiled within the Project work area, and stockpiles shall be removed from the work area prior to the end of construction. Longer-term spoil storage shall not be located within the stream or lake, where spoil could be washed into the stream or lake, or where it could cover aquatic or riparian vegetation.
- (b) Rock, gravel, and/or other materials shall not be imported into or moved within the stream or lake, except as otherwise addressed in this Agreement.
- (c) All rip rap and other rock that is installed for the project shall consist of clean, natural rock.
- (d) Soils that are excavated and temporarily displaced shall be used to backfill excavations and return disturbed areas to original contours.

2.9 Erosion.

- (a) No work will be conducted during rain or immediately following large rainfall events (defined as  $\frac{1}{4}$  inch of rain in any 24-hour period), except within a work area that is isolated and kept dewatered, as described in the Project Description.
- (b) Unless a diversion is installed according to the Project Description and Avoidance and Minimization Measure 2.11, no work shall be completed when water is present in the stream or saturated soils are present.
- (c) All disturbed soils within the Project site shall be stabilized to reduce erosion potential during and following Project activities. Temporary erosion control devices, such as straw bales, silt fencing, and sand bags, may be used, as appropriate, to prevent siltation of the channel. To minimize the risk of ensnaring and strangling wildlife, coir rolls, erosion control mats or blankets, straw or fiber wattles, or similar erosion control products shall be composed entirely of natural-fiber, biodegradable materials. Permittee shall not use "photodegradable" or other plastic erosion control materials.
- (d) If the Project results in unvegetated areas on the stream or lake 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 Project activity ends, unless otherwise agreed to in advance 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.

## 2.10 Pollution.

- (a) During Project implementation, Permittee shall not dump litter or debris within the stream or lake. All such debris and waste shall be picked up daily and properly disposed of at an appropriate site.
- (b) 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".
- (c) Permittee shall install the necessary containment structures outside of forms to control the placement of any wet concrete/cement and to prevent it from entering into the stream or lake outside of those structures. No concrete/cement shall be poured or applied if the seven-day weather forecast indicates any chance of rain. At all times when Permittee is pouring or working with wet concrete/cement there shall be a designated monitor to inspect the containment structures and ensure that no concrete or other debris enters into the channel outside of those structures. Poured concrete/cement shall remain isolated from surface waters and soils that could become saturated, and allowed to cure for a minimum of 30 days or until the pH as tested with tap water does not exceed 9.0, using methods approved in advance by CDFW. Any rain water that comes into contact with the concrete structures shall be contained and isolated from the wetted stream or lake; the water pH shall be tested, and water shall be removed from the site and disposed of lawfully if the pH exceeds 9.0. Permittee shall submit to CDFW the results of all pH testing, including measurements that demonstrate a pH at or below 9.0 as tested prior to removing the containment structures.
- (d) Permittee and all contractors shall be subject to the water pollution regulations found in FGC Sections 5650 and 12015.
- (e) A Spill Response Plan shall be prepared and submitted to CDFW for written approval prior to the start of Project activities, and kept on-site during the Project. The Plan shall identify the actions that shall be taken in the event of

a spill of petroleum products, concrete, contaminated soil, or other material harmful to fish, plants, or aquatic life. Emergency response materials shall be kept at the site and readily available to allow rapid containment and cleanup of any spilled material. In the event that a spill occurs, all Project activities shall immediately cease until cleanup of the spilled materials is completed. CDFW shall be notified immediately by Permittee of all spills.

2.11 Work Site Dewatering. Stream diversion and dewatering shall be implemented as described in the Project Description, if necessary to create dry work area conditions. Permittee shall submit a Final Diversion and Dewatering Plan to CDFW for written approval. The Plan shall incorporate, at a minimum, the following:

- (a) A map of the locations and dimensions of all diversion and dewatering activities.
- (b) Check dams, cofferdams, and other barriers shall not be made of silt, soil, sand and gravel, or other substances subject to erosion unless first enclosed by visquine, sandbags, or other protective material prior to contact with stream flow.
- (c) Water pumped from the work site itself to maintain it in a dewatered state shall be discharged in an area outside the wetted channel and allowed to filter through vegetation and percolate back to the stream or lake. Temporary diversion structures used to isolate the work area shall be constructed in a manner that prevents seepage into the work area. The structure, including all fill, enclosure material, and trapped sediments, shall be removed when Project construction is completed. Removal shall normally proceed from downstream in an upstream direction.

### **3. Compensatory Measures**

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

3.1 Revegetation/Restoration. Permittee shall submit to CDFW a Final Revegetation Plan for approval at least two weeks prior to starting Project activity. The Final Revegetation Plan shall specifically identify on-site plantings of native trees in accordance with the requirements of Avoidance and Minimization Measure 2.5(b), and include monitoring and maintenance to ensure a minimum of 70 percent survival for tree plantings after five (5) years, including a period of three (3) consecutive years when supplemental watering may be utilized followed by an minimum of additional two (2) years without such assistance. The Plan shall also include final and interim success performance criteria, and define remedial actions to take if those criteria are not met. The Plan shall describe an initial planting date (during Year 0) that is within one year following tree removal; describe the

location(s) and species of plantings; and include an Annual Report format to be used for annual reporting to CDFW. Annual Reports shall at a minimum document the success of tree plantings in becoming established, include photo documentation, and describe any remedial actions required to meet the success criteria, such as subsequent tree plantings. Any subsequent remedial tree plantings shall start a new five-year monitoring and reporting period to document the successful establishment of those plantings. CDFW shall review Annual Reports and beginning with Year 5 post-planting shall determine whether performance criteria have been met; if performance criteria have been met, CDFW shall provide written documentation.

#### **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 shall be implemented within the time periods indicated in this Agreement and the reporting 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:

- Work schedule, submitted to CDFW prior to commencing Project activities (Administrative Measure 1.8).
- Worker training documentation, submitted to CDFW within one (1) week of completing each training, each year of Project work (Administrative Measure 1.9).
- Results of pre-activity surveys, submitted to CDFW at least one (1) week prior to the start of each Project activity, each year of Project work (Avoidance and Minimization Measure 2.3(a)).
- Results of surveys for bald and golden eagles submitted to CDFW at least one (1) week prior to the start of Project activity, each year of Project work (Avoidance and Minimization Measure 2.3(b)).
- Results of surveys for nesting birds, if Project activities are scheduled during the avian nesting season, submitted to CDFW at least one (1) week prior to the start of Project activity, each year of Project work (Avoidance and Minimization Measure 2.4(b)).

- A Swallow Exclusion Plan, as warranted, if Project activities will occur during the avian nesting season, submitted to CDFW at last two weeks prior to the start of Project activity, each year of Project work (Avoidance and Minimization Measure 2.4(b)).
- Results of bat surveys, submitted to CDFW within two (2) weeks following survey completion for each year of Project work, and a Bat Exclusion Plan if bats are present, submitted to CDFW for written approval at least 30 days prior to proposed exclusion activity (Avoidance and Minimization Measure 2.4(c)).
- A seed mixture to be used to control erosion, submitted to CDFW for approval prior to application (Avoidance and Minimization Measure 2.9(d)).
- Results of pH testing according to a method approved in advance by CDFW, if not waiting 30 days for concrete to cure, submitted to CDFW within five (5) days of completion (Avoidance and Minimization Measure 2.10(c)).
- A Spill Response Plan, submitted to CDFW for approval at least two (2) weeks prior to the start of Project activity (Avoidance and Minimization Measure 2.10(e)).
- A Final Diversion and Dewatering Plan, if needed to create and maintain dry work area conditions, submitted to CDFW for written approval at least 30 days prior to the start of Project activity (Avoidance and Minimization Measure 2.11).
- A Final Revegetation Plan, submitted to CDFW at least two (2) weeks prior to the start of Project activity (Compensatory Measure 3.1(a)).
- Annual Reports of compensatory plantings, submitted to CDFW by December 31 of each year for a minimum of five years after initial planting (Compensatory Measure 3.1(a)).
- A Final Project Report to be submitted within 30 days after the Project is completed. The final report shall summarize the Project, and address the implementation of each Protective Measure included in this Agreement. Before, during, and after photo documentation of each Project work area shall be included in the report. If Project work is not completed in one year or work season Permittee shall submit an Interim Project Report after Project activity ceases for a given season or year. The Interim Report shall include the same information as the Final Report.

## **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. Permittee shall submit all schedules, survey results, reports, and/or plans required by this Agreement in hard copy to the address below; Permittee may additionally submit those materials electronically by email to the CDFW contact identified below (or subsequent contact) **and** to [R4LSA@wildlife.ca.gov](mailto:R4LSA@wildlife.ca.gov).

### To Permittee:

County of Fresno  
Department of Public Works and Planning  
Mohammad Alimi, PE – Design Division Manager  
2220 Tulare Street, 7<sup>th</sup> Floor  
Fresno, California 93721  
Phone: (559) 600-4505  
[malimi@co.fresno.ca.us](mailto:malimi@co.fresno.ca.us)

### 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 – Charles Walbridge  
Notification No. 1600-2017-0173-R4  
Phone: (559) 243-4014 extension 352  
Fax: (559) 243-4020  
[charles.walbridge@wildlife.ca.gov](mailto:charles.walbridge@wildlife.ca.gov)

## **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 complying with, 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. 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 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 Reg., 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 Reg., 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 shall 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](http://www.wildlife.ca.gov/habcon/ceqa/ceqa_changes.html).

## **TERM**

This Agreement shall remain in effect for five (5) years beginning on the date signed by CDFW, unless it is terminated or extended before then. All provisions in this Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing provisions 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 Initial Study/Mitigated Negative Declaration prepared by the County of Fresno as the Lead Agency for the Italian Bar Road Bridge Replacement Project (State Clearinghouse No. 2016041064), approved on May 25, 2016. A copy of the Initial Study/Mitigated Negative Declaration was provided to CDFW by Permittee.

CDFW, as a CEQA Responsible Agency, shall submit a Notice of Determination 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 provisions 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**

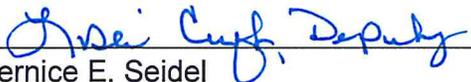
The undersigned accepts and agrees to comply with all the provisions of this Agreement.

**FOR COUNTY OF FRESNO**

  
\_\_\_\_\_  
Sal Quintero  
Chairperson of the Board of Supervisors  
of the County of Fresno

9/25/18  
\_\_\_\_\_  
Date

**ATTEST:**

  
\_\_\_\_\_  
Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

9/25/18  
\_\_\_\_\_  
Date

**FOR CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

  
\_\_\_\_\_  
Julie A. Vance  
Regional Manager - Central Region

10/12/18  
\_\_\_\_\_  
Date

Prepared by: Charles Walbridge  
Environmental Scientist