

## REGULATORY TEXT

Section 722 is added to Title 14 of the California Code of Regulations to read:

### **§ 722. General Lake or Streambed Alteration Agreement for Activities Related to Cannabis Cultivation.**

(a) Purpose.

(1) This regulation constitutes a general lake or streambed alteration agreement under Section 1617 of the Fish and Game Code, referred to herein as the “General Agreement.”

(2) This General Agreement applies only to Stream Crossings in the form of a bridge, culvert, or rock ford, and to Water Diversions on non-fish rivers, streams, and lakes for the purpose of Cannabis Cultivation, each a “Covered Activity.”

(b) Requirements. An Entity shall be authorized under this General Agreement to conduct a Covered Activity only if all of the following occur:

(1) The Eligibility Criteria in subsection (d) are met.

(2) The Entity notifies the department and pays a fee or fees in accordance with subsection (f).

(3) The Entity receives notice from the department that the Covered Activity is authorized under this General Agreement.

(4) The Entity complies with all applicable measures and requirements in subsections (h)–(k).

(c) Definitions. The following definitions apply to this section:

(1) “Authorized Activity” means a Covered Activity an Entity is authorized to conduct under this General Agreement after notice by the department.

(2) “Biological Resources Assessment” means a survey and biological resource report of the Project Site by a Biologist. In preparing a Biological Resources Assessment, the Biologist shall do the following:

(A) Identify the presence or potential presence of any Species of Greatest Conservation Need and finfish and their habitat, and invasive species, relying on the U.S. Department of Agriculture’s Ecoregion Classification system, California’s Vegetation Classification and Mapping Program macrogroups (based on the National Vegetation Classification System), and the U.S. Geological Survey’s Hydrologic Classification hydrologic unit code 8.

(3) “Biologist” means a person who meets the following minimum qualifications:

(A) Possesses a degree in biological or natural resources, or a closely related scientific discipline, from an accredited university.

(B) Is familiar with Species of Greatest Conservation Need, their home ranges compared to the Project Site, and their local ecology.

(C) Has experience conducting habitat assessments and seasonal surveys for Species of Greatest Conservation Need following standardized survey protocols and procedures, or has experience with these surveys conducted under the direction of an experienced surveyor.

(D) Has experience analyzing project impacts on Species of Greatest Conservation Need and their habitat.

(E) Is familiar with invasive species prevention and eradication.

(4) “Bladder” means a flexible container designed to store water.

(5) "Cannabis Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.

(6) "Covered Activity" means the construction or reconstruction of a bridge, culvert, or rock ford, or a Water Diversion that is used or will be used for the purpose of Cannabis Cultivation for which the Entity is seeking authorization under this General Agreement.

(7) "Design Plan" means a detailed description of the design, including drawings, of a Stream Crossing or reservoir stamped by a Licensed Professional. A Design Plan must include the following:

(A) If flowing water is present or reasonably anticipated when the Stream Crossing is being constructed or reconstructed, the Design Plan shall describe how the stream will be temporarily dewatered, and shall include best management practices to control siltation and turbidity.

(B) Scaled drawings of the Stream Crossing or reservoir in plan, profile, and cross-section view; component details; and construction notes that give specific directions on the construction methods that will be employed to construct or reconstruct the Stream Crossing or reservoir.

(C) Identification of all road approaches to the Stream Crossing or reservoir that need to be hydrologically disconnected from surface waters.

(8) "Entity" means "entity" as defined in Section 1601, subdivision (d), of the Fish and Game Code.

(9) "Finfish" means "finfish" as defined in Section 1.46.

(10) "Finfish stream or lake" means any stream or lake that is used by finfish or contains habitat that supports or could support finfish.

(11) "Licensed Professional" means a person licensed under the Professional Engineer Act (Bus. & Prof. Code, §§ 6700-6799), the Geologist and Geophysicist Act (Bus. & Prof. Code, §§ 7800-7887), the Professional Land Surveyors' Act (Bus. & Prof. Code, §§ 8700-8805), or the Professional Foresters Law (Pub. Resources Code, §§ 750-783).

(12) "Listed or Fully Protected Species" means any native plant species listed as rare under the Native Plant Protection Act (Fish & G. Code, § 1900 *et seq.*; Cal. Code Regs., tit. 14, § 670.2); any species that is listed or is a candidate for listing under the California Endangered Species Act (Fish & G. Code, § 2080 *et seq.*; Cal. Code Regs., tit. 14, §§ 670.2, 670.5); or any fully protected species (Fish & G. Code, §§ 3511, 4700, 5050, 5515).

(13) "Permittee" means an Entity who has obtained authorization from the department to conduct a Covered Activity under this General Agreement.

(14) "Project Site" means the location of the Covered Activity.

(15) "Property" means the property on which the Project Site is located as identified by an Assessor's Parcel Number.

(16) "Property Diagram" means a diagram to scale of the Property that identifies the following with locations also provided as coordinates in either latitude and longitude or the California Coordinate System:

(A) The location and size of all existing stream crossings, Water Diversions, and water storage facilities of any type on the Property.

(B) The location of the Project Site on the Property.

(C) Each river, stream, lake, and other waters on the Property, including springs.

(D) Sources of water used on the Property and the location of all points of diversion, including pumps.

(E) Water distribution systems.

(F) The Assessor's Parcel Number for the Property.

(17) "Reconstruction" means the replacement or significant repair of an existing Stream Crossing or Water Diversion where the new structure:

(A) Will be located on the same site as the structure replaced or repaired and will have substantially the same purpose as the structure replaced or repaired.

(B) Will minimize or avoid direct and indirect adverse impacts on fish and wildlife resources compared to the existing structure.

(18) "River" includes stream.

(19) "Species of Greatest Conservation Need" means "Species of Greatest Conservation Need" listed in Appendix C of the California State Wildlife Action Plan 2015 Update, Volume II (<https://www.wildlife.ca.gov/SWAP>).

(20) "Stream" means any stream or river, including streams or rivers that are dry for periods of time.

(21) "Stream crossing" means a bridge, culvert, or rock ford in or over a stream or river, and all fill material within the crossing prism.

(22) "Take" means "take" as defined in Section 86 of the Fish and Game Code.

(23) "Water Diversion" means the act of diverting water and all infrastructure used to store or intercept surface flow and hydrologically connected subsurface flow, such as wells.

(24) "Water Storage Facility" means an artificial water storage facility comprised of a bladder, reservoir, or storage tank.

(25) "Waters of the State" means "state waters" as defined in Section 89.1 of the Fish and Game Code.

(d) Eligibility Criteria. This General Agreement shall apply to a Covered Activity when the Entity certifies to the department all of the following:

(1) Each activity for which the Entity is notifying the department under subsection (f) is a Covered Activity.

(2) Each Covered Activity included in the notification under subsection (f) meets the applicable Design Criteria in subsection (e).

(3) The Covered Activity will not occur on or in a finfish stream or lake.

(4) The Covered Activity will not result in take of a Listed or Fully Protected Species.

(5) The Covered Activity is not the subject of a complaint or order by the department under Section 12025 of the Fish and Game Code, a complaint filed by a city attorney, District Attorney, the Attorney General, or an order by a court.

(6) If the Entity is seeking authorization under this General Agreement in response to a notice of violation by the department, the authorization will address each violation alleged in the notice.

(7) The Entity will meet the applicable measures and requirements in subsections (h)–(k).

(e) Design Criteria.

(1) Bridge.

(A) Comprised of a single span structure across a stream with all abutments located outside the top of the stream banks.

(B) Minimally conveys a 100-year peak storm flow with one foot of freeboard.

- (C) Does not prevent, impede, or tend to prevent or impede the passing of amphibians, reptiles, or other non-fish up and downstream.
  - (D) The tops of any abutment footings are below the calculated scour depth.
- (2) Culvert.
- (A) Comprised of a single pipe.
  - (B) Sized to minimally convey a 100-year peak storm flow or designed to withstand a 100-year peak storm flow.
  - (C) Aligned within the channel and otherwise engineered, installed, and maintained to prevent washout and erosion of the streambed, stream banks, and fill.
  - (D) Embedded below the natural channel grade to facilitate substrate deposition on the culvert floor. Where physical conditions preclude embedment (i.e., bedrock-floored channels), the maximum slope of the culvert must be 0.5 percent with no hydraulic drop at the outlet.
  - (E) Extended lengthwise completely beyond the toe of fill.
  - (F) Set to the natural stream grade of the stream reach.
  - (G) Inlets, outlets (including the outfall area), and fill faces are armored using rock where stream flow, road runoff, or rainfall is likely to cause erosion.
  - (H) Open bottom culverts are placed on footings excavated below the calculated scour depth.
  - (I) Corrugated metal pipe is used in areas of high to very high fire hazard as indicated by CAL FIRE Fire Hazard Severity Zone Maps.
  - (J) Does not prevent, impede, or tend to prevent or impede the passing of amphibians, reptiles, or other non-fish up and downstream.
- (3) Rock ford.
- (A) Located in a stable stream reach with a coarse gravel and cobble streambed.
  - (B) Oriented perpendicular to flow and designed to maintain the range of surface flows that occur in the stream.
  - (C) Constructed using rock that can withstand streambed and bank erosion by the expected range of flow velocities.
  - (D) Does not contain concrete or asphalt in any form.
  - (E) Does not prevent, impede, or tend to prevent or impede the passing of amphibians, reptiles, or other non-fish up and downstream.
- (4) Water diversion.
- (A) Water diverted at each place or point of diversion does not exceed an instantaneous diversion rate of 10 gallons per minute and visible continuous flow is maintained downstream of each point of diversion.
  - (B) Water diversion devices and structures, including mechanical (i.e., devices using suction or pressure to move water from the point of diversion to a place of water storage or use, including such devices on water trucks) and non-mechanical (e.g., cistern or spring box) devices and structures; approaches to water diversion structures; pipes; screens; and associated materials (e.g., pipes and mats) meet the following design criteria:
    1. Designed to allow for inspection and maintenance (e.g., cleaning the intake screen) without disturbing the streambed.
    2. Screened to the following specifications:
      - a. Consisting of round openings evenly distributed on the screen area not exceeding 3/32-inch diameter; square openings not exceeding 3/32-inch, measured diagonally; or slotted openings not exceeding 0.069 inch in width.

- b. Securely attached to the water intake line or supporting structure.
- c. Constructed of corrosion-resistant material, such as stainless steel, that is not deleterious to aquatic life.

3. Does not prevent, impede, or tend to prevent or impede the passing of amphibians, reptiles, or other non-fish up and downstream.

(C) Water diverted to storage for cannabis cultivation does not exceed five acre-feet per year and is stored in a Water Storage Facility ("WSF") that meets the following criteria:

- 1. Located off-stream and outside the active 100-year floodplain.
- 2. Is not used to store or mix chemicals.
- 3. If the WSF is a reservoir:
  - a. Artificially constructed, off-stream water body not exceeding five acre-feet of storage, designed by a Licensed Professional.
  - b. No hydrologic connectivity to upstream surface waters.
  - c. The overflow outlet is designed and located to prevent erosion in case of overtopping.
  - d. All intakes are screened as specified in subsection (e)(4)(B)2.
  - e. Constructed and operated in a manner that enables wildlife to exit the waterbody.
- 4. If the WSF is a bladder, the WSF includes a secondary containment structure to contain 100 percent of water volume in case of bladder failure.
- 5. If the WSF is a tank:
  - a. Enclosed (no open top).
  - b. Made of rigid material, such as metal or high-density polyethylene, designed to hold water.
  - c. Includes a secondary containment structure to contain 100 percent of water volume in case of tank failure.
  - d. Piping includes backflow prevention devices to minimize backflow and cross contamination, for example, from mixing tanks.

(f) Notification and Fee Requirements. To seek authorization to conduct a Covered Activity under this General Agreement, the Entity must go to the website for the department's Lake and Streambed Alteration Program at: <https://www.wildlife.ca.gov/Conservation/LSA> and follow the links and instructions to apply for authorization. To apply for authorization, the Entity must provide some or all of the information specified in subsection (f)(1) ("Notification"), make the certifications described in subsection (f)(2) ("Certifications"), and when applicable, pay the fee(s) as specified in subsection (f)(3) below.

(1) Information. The department may request the entity to provide some or all of the information described below for each Covered Activity for the purpose of seeking authorization to conduct the Covered Activity under this General Agreement.

(A) The name, mailing address, telephone and fax numbers, and email address of the following individuals:

- 1. The Entity.
- 2. The Entity's designated representative or contact person, if applicable.
- 3. The Property.
- 4. The Biologist who prepared the Biological Resources Assessment.
- 5. The Licensed Professional who prepared the Design Plan, if a Design Plan is required.

(B) Information for the purpose of calculating the total fee, including the cost of each Covered Activity and the fee for each.

(C) Whether the Covered Activity is the subject of a notice of violation by the department; a complaint or order by the department under Section 12025 of the Fish and Game Code; a complaint by a city attorney, District Attorney, or the Attorney General; or an order or notice by a court or agency other than the department, and information regarding the notice, complaint, or order.

(D) Location of the Project Site, including the address or description of the location with reference to the nearest city or town; the county; driving directions from a major road or highway; the name of the stream or lake in or near where the Covered Activity will occur; the watercourse or waterbody to which the stream or lake is tributary; the USGS 7.5 Minute Quad Map Name, the Township, Range, Section, ¼ Section, and Meridian; coordinates, such as latitude/longitude and UTM; and the Assessor's Parcel Number for the Property the Project Site is located on.

(E) The type of Covered Activity (i.e., bridge, culvert, rock ford, or water diversion).

(F) A description of the Covered Activity.

(G) Information to confirm the Covered Activity meets the Eligibility and Design Criteria in subsections (d) and (e) and to confirm the Entity is able to and will meet the applicable measures and requirements in subsections (h)–(k).

(H) Information regarding any temporary or annual license the California Department of Food and Agriculture has issued to the Entity, or that the Entity has applied or will apply for, that authorizes or would authorize the Cannabis Cultivation the Covered Activity relates to.

(I) Whether the Covered Activity would be a new activity or is an existing activity.

(J) Information regarding the Entity's Water Diversion.

(2) Certifications. The Entity must certify the following:

(A) The Entity has in its possession the following documents:

1. A Biological Resources Assessment.
2. A Design Plan for each Stream Crossing.
3. A Property Diagram.

(B) The Covered Activity and Entity meet the Eligibility Criteria in subsection (d), relying in part on the Biological Resources Assessment and, where applicable, the Design Plan.

(3) Fees.

(A) The Entity must pay a fee in the amount the Entity would need to pay for a Standard Agreement for a term of five years or less, as specified in the department's fee schedule for lake and streambed alteration agreements in Section 699.5, subsection (b).

(B) The remediation fee in Section 699.5, subsection (i), if applicable.

(4) A Notification made to the department under this subsection (f) may include more than one Covered Activity.

(g) Authorization. Upon receipt of the Notification, Certifications, and applicable fee(s) specified in subsection (f), the department shall authorize the Covered Activity or Activities described in the Notification by providing notice to the Entity.

(h) Administrative Measures.

(1) Documentation at Project Site. Permittee shall make the following documents available to all persons conducting the Authorized Activity at the Project Site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and

monitors, and shall present these documents to any department or other governmental agency employee upon the employee's request:

(A) The department's authorization under subsection (g) and the information in subsection (f)(1) the Entity provided the department.

(B) Any approval by a local, state, or federal agency that relates to the Authorized Activity, including a temporary or annual cannabis cultivation license issued by the California Department of Food and Agriculture.

(C) Biological Resources Assessment.

(D) Any Design Plan.

(E) Property Diagram.

(F) Each survey, plan, and report described in subsections (i), (j), and (k).

(2) Document Submittal. Permittee shall electronically submit to the department a copy of the Biological Resources Assessment, Design Plan, and Property Diagram within 90 days of receiving authorization from the department under subsection (g). The documents shall be submitted to the department through the website for the department's Lake and Streambed Alteration Program at: <https://www.wildlife.ca.gov/Conservation/LSA>.

(3) Notice to Cease Authorized Activity. Permittee shall cease an Authorized Activity if the department notifies Permittee in writing that the activity is adversely affecting fish and wildlife resources. This includes, but is not limited to, information made available to the department that indicates that bypass flows or diversion rates under this General Agreement are not keeping aquatic life downstream in good condition or avoiding take of Listed or Fully Protected Species.

(4) Access to Project Site. Permittee shall allow department employees access to the Project Site to inspect or monitor any Authorized Activity. Inspection and monitoring shall be conducted between the standard business hours of 8:00 a.m. to 5:00 p.m. (Pacific Standard Time) or at other reasonable time, or otherwise as mutually agreed to by the department and the Permittee. Prior notice of inspection is not required.

(i) General Measures to Protect Fish and Wildlife Resources.

(1) Work Periods. Permittee may only conduct work on or within the bed, bank, or channel of a stream or lake from June 15 to October 15.

(2) Work in Dry Weather Only. Permittee shall cease the Authorized Activity when the National Weather Service ("NWS") 72-hour weather forecast indicates a 30 percent chance or higher of precipitation. Permittee shall implement all necessary erosion control measures prior to the onset of precipitation and remove construction equipment and materials if precipitation is likely. Work activity halted due to precipitation may resume when the NWS 72-hour weather forecast indicates less than a 30 percent chance of precipitation. No Authorized Activity shall occur during a dry-out period of 24 hours after wet weather. Permittee shall provide documentation of weather forecasts upon the department's request.

(3) Wildlife.

(A) Leave Wildlife Unharmd. If any wildlife is encountered during the Authorized Activity, Permittee shall not disturb the wildlife and shall allow wildlife to leave the work site unharmd.

(B) Habitat Elements. Permittee shall take measures to minimize disturbance to aquatic and riparian habitat elements such as pools and structures including large wood or vegetation that overhangs the channel.

(C) Check for Wildlife. Every day, prior to beginning any construction work, Permittee shall visually check all sections of pipe/construction materials and associated work equipment for the presence of wildlife sheltering in them. Alternatively, the ends of any pipes may be capped while stored on site to prevent wildlife from entering.

(D) Escape Ramp in Trench. At the end of each workday, Permittee shall place an escape ramp at each end of any open trench to allow wildlife that may have become entrapped in the trench to escape. The ramp may be constructed of dirt, wood planking, or other suitable material and shall be placed at an angle no greater than 30 degrees.

(E) Nest/Den Surveys. If construction, grading, vegetation removal, or other Authorized Activity is scheduled between February 1 and August 31, a Biologist shall conduct a focused survey for nests and dens of birds and mammals within seven days prior to beginning the Authorized Activity. If a nest or den is found, Permittee shall consult with the department before commencing the Authorized Activity. If a lapse in the Authorized Activity of seven days or longer occurs, a Biologist shall conduct another focused survey, and thereafter if necessary.

(F) Active Nest/Den Buffers: If a nest or den is found during any survey, the Biologist shall establish a protective buffer and ensure appropriate action is taken to avoid or minimize impacts on the birds or mammals while the nest or den is occupied, during the Authorized Activity.

1. The buffer distance must be site-specific and adequate to protect normal animal behavior to prevent reproductive failure or nest/den abandonment, as determined by the Biologist. To meet this objective, the Biologist shall determine the buffer distance after the Biologist conducts field investigations that evaluate the apparent distress of the animal(s) in the presence of people or equipment at various distances.

2. Abnormal nesting or denning behaviors that might cause reproductive harm include, but are not limited to, defensive movements, flights, or vocalizations directed towards work personnel, standing up from a brooding position, and moving or flying away from the nest or den. The Biologist shall have authority to order cessation of the Authorized Activity if the nesting animal exhibits abnormal behavior that could cause reproductive failure (i.e., nest or den abandonment and loss of eggs or young) until an appropriate buffer is established.

#### (4) Vegetation.

(A) Minimum Vegetation Removal. 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.

(B) Plant Species of Greatest Conservation Need. If a population of any of plants designated as a Species of Greatest Conservation Need is found at the Project Site or potentially present, the Biologist shall establish a protective buffer and ensure appropriate action is taken to avoid or minimize impacts on the plants during the Authorized Activity.

1. The buffer distance must be site-specific and adequate to protect the plants, as determined by the Biologist.

#### (5) Temporary Dewatering and Flow Bypass.

(A) When the Authorized Activity occurs in a flowing stream, Permittee shall divert the stream flow around or through the work area during the Authorized Activity.

(B) Sufficient Flow Downstream. Permittee shall allow sufficient flow at all times to pass downstream for purposes of maintaining aquatic life.

(C) 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.

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

(E) Restore Natural Flow. Permittee shall restore the natural stream flow pattern immediately upon completion of the Authorized Activity.

(6) Herbicide and Pesticide Use.

(A) Avoid Waters of the State. Permittee shall not use chemical herbicides or pesticides, including chemical rodenticides, that are deleterious to fish, plant life, mammals, or bird life, where they may pass into the waters of the state.

(B) No Chemical Rodenticides. Permittee shall not treat areas considered suitable habitat for Species of Greatest Conservation Need or areas with suspected occupied nesting or denning habitats with chemical rodenticides at the Project Site.

(7) Erosion Control and Pollution.

(A) 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.

(B) 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.

(C) 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. 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.

(D) Fill Material. Fill materials placed in the stream channel shall be adequate to withstand high stream flow and shall consist of clean, non-erodible, silt-free material. All fill material shall be free from any substance or material deleterious to fish and wildlife (e.g., corrosives, combustibles, noxious, or reactive materials). Permittee shall not use asphalt, rebar, or concrete as fill material.

(E) 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 bio-degradable 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.

(F) 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.

(G) Removal, Storage, and Disposal of Fill, Spoils, and Debris. Permittee shall remove all excavated fill, spoil, and debris from any stream, lake, or other Waters of the State and place it in stable upland locations where it cannot discharge into such waters, or dispose of it according to state and local laws and ordinances.

(H) 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.

(I) Stockpiled Materials. Permittee shall not stockpile or store any building materials and/or construction materials where they may be washed or percolate into a stream, lake, or other Waters of the State, or where they may adversely affect stream habitat or aquatic or riparian vegetation.

(J) 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.

(K) Debris Removal. Permittee shall pick up all debris and waste daily, and shall dispose of it according to local and state and law.

(L) Wash Water. Permittee shall not allow water containing mud, sediment, or other pollutants from equipment washing or other activities to enter a stream, lake, or other Waters of the State.

(M) Staging and Storage. Permittee shall not stage or store any equipment, materials, fuels, lubricants, solvents, and hazardous or toxic materials where they may enter a stream or lake, or where they have potential to enter a stream, lake, or other Waters of the State (e.g., through storm water runoff or percolation). Equipment shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak.

(N) Equipment Maintenance and Fueling. Permittee shall not conduct any maintenance activity or refuel equipment in any location where the petroleum products or other pollutants may enter a stream, lake, or other Waters of the State.

(8) Hazardous Materials and Spills.

(A) Toxic Materials. Permittee shall store any hazardous or toxic materials that could be deleterious to aquatic life in accordance with all applicable federal, state, and local laws and ordinances.

(B) Hazardous Substances. Permittee shall prevent raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substance that could be hazardous to aquatic life from contaminating the soil or entering a stream or lake. Permittee shall immediately remove any of these materials placed within, or where they may enter, a stream or lake or other Waters of the State.

(C) Cleanup and Containment. In the case of a spill, Permittee shall immediately notify the California Office of Emergency Services State Warning Center at 1-800-852-

7550 and immediately initiate clean-up activities. The local department Regional Office shall be notified of clean-up procedures.

(9) Invasive Species Control. Permittee shall conduct the Authorized Activity in a manner that prevents the introduction, transfer, and spread of invasive species from one work site or waterbody to another by following the requirements below.

(A) Decontamination of Work Equipment. Permittee shall inspect and decontaminate all tools, waders, boots, and other work-related equipment that will enter water prior to entering and exiting the work site and/or between each use in different waterbodies to avoid the introduction and transfer of organisms between waterbodies. Permittee shall decontaminate project gear and equipment using one of three methods: 1) drying; 2) hot water soak; or 3) freezing, as appropriate to the type of gear or equipment. For all methods, Permittee shall begin the decontamination process by thoroughly scrubbing equipment, paying close attention to small crevices such as bootlaces, seams, and net corners, with a stiff-bristled brush to remove all organisms. To decontaminate by drying, Permittee shall allow equipment to dry thoroughly (i.e., until there is a complete absence of water), preferably in the sun, and keep the equipment dry for a minimum of 48 hours. To decontaminate using a hot water soak, Permittee shall immerse equipment in 140°F or hotter water and soak, completely submerged, for a minimum of five minutes. To decontaminate by freezing, Permittee shall place equipment in a freezer 32°F or colder for a minimum of eight hours. Repeat decontamination is required only if the equipment or clothing is removed from the Project Site, used within a different waterbody, and returned to the Project Site or different waterbody.

(B) Decontamination of Larger Vehicles. Permittee shall decontaminate vehicles and other Covered Activity-related equipment too large to immerse in a hot water bath by pressure washing with hot water a minimum of 140°F at the point of contact or 155°F at the nozzle. Following the hot water wash, Permittee shall drain water and dry all vehicles and other large equipment as thoroughly as possible.

(C) Decontamination Sites. Permittee shall perform decontamination of vehicles, tools, waders and boots, and other project-related equipment in a designated location where runoff can be contained and not allowed to pass into a stream, lake, or other Waters of the State, or other sensitive habitat areas.

(j) Specific Measures to Protect Fish and Wildlife Resources.

(1) All Stream Crossings.

(A) Road Approaches. Permittee shall maintain Stream Crossings to minimize erosion and sediment delivery to the stream, lake, or other Waters of the State. Permittee shall ensure road approaches are hydrologically disconnected to the maximum extent feasible to prevent sediment from entering the crossing site, and shall be maintained as necessary by Permittee.

(B) Vegetation Management. Permittee shall limit vegetation management (e.g., trimming, pruning, or limbing) and removal for the purpose of Stream Crossing maintenance to the use of hand tools, and shall not include treatment with herbicides.

(C) Time Period Reconstruction. Reconstruction must be completed within one calendar year from the date the department authorizes the Covered Activity under this General Agreement, unless the department extends the one-year time period at its sole discretion.

(2) Bridges.

(A) Concrete Abutments – Primary Containment. Permittee shall install the necessary containment structures for concrete bridge abutments to control the

placement of wet concrete and to prevent it from entering into the bed, bank, or channel outside of these structures.

(B) Concrete Abutments – Secondary Containment. Permittee shall install a secondary containment structure between the primary containment structures to prevent wet concrete from entering into the stream upon failure or leak of the primary structures.

(C) Concrete Abutments – Designated Monitor. Permittee shall designate a monitor to inspect containment structures and ensure there is no failure of containment structures when pouring or working with wet concrete placed for bridge abutments.

(D) Concrete Washout. Permittee shall ensure that concrete washout occurs in a designated and appropriately prepared area outside the active 100-year floodplain. Permittee shall not allow wash water or debris to enter the stream or riparian area. Permittee shall inspect concrete washout facilities daily and after rain to check for leaks and identify if linings and sidewalls have been damaged by construction activities.

(3) Culverts.

(A) Concrete. Permittee shall ensure poured concrete is excluded from the wetted channel for a period of at least 30 days. Permittee shall not allow runoff from the concrete to enter a stream and shall ensure it is disposed of properly.

(B) Concrete Sealant. Permittee may apply sealants to the poured concrete surface where it may be difficult to exclude water flow for a long period. If sealant is used, Permittee shall exclude water from the site until the sealant is dry.

(C) Culvert Maintenance. Permittee shall maintain culverts and keep them clear of debris. Such work shall maintain culvert location design and materials. Maintenance does not include replacement.

(4) Water Diversions.

(A) Season of Diversion. After October 31, 2018, Permittee shall confine the period of diversion to December 15 through March 31.

(B) Water Storage and Control. Permittee shall cease all water diversion at the point of diversion when WSFs are filled to capacity. Water shall not leak, overflow, or overtop WSFs at any time.

(C) Diversion Intakes. Permittee shall plug, cap, block (e.g., shut-off valve), or remove all intakes at the end of each diversion season.

(D) Underground Water Diversion Infrastructure. Infrastructure installed in the streambed (e.g., cistern or spring box) shall not exceed 10 percent of the active channel width and shall not be located in the deepest portion of the channel. The depth of the screened intake shall be no greater than one foot below the streambed.

(E) Diversion Maintenance. Permittee shall inspect, maintain, and clean screens and bypass structures as necessary to ensure proper operation for the protection of non-fish and wildlife.

(F) Bypass Flow. Permittee shall pass sufficient flow at all times to keep fish below Permittee's diversion facility in good condition. If at any time the diversion rate identified in subsection (e)(4)(A) cannot be maintained, Permittee shall cease diversion and all natural flow shall be allowed to bypass the point of diversion.

(G) Diversion Materials. Permittee shall not use or construct the diversion structure with materials deleterious to fish or wildlife, including but not limited to, particle board, plastic sheeting, bentonite, pressure treated lumber, creosote, concrete, or asphalt.

(H) Diversion Monitoring. Permittee shall install and maintain an adequate measuring device for measuring the instantaneous and cumulative rate of diversion.

The device shall be installed within the flow of diverted water. Permittee shall maintain records of diversion with the:

1. Date and time diversion occurred.
2. 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).
3. Permittee shall maintain daily diversion records and shall make the records available for review at the request of the department. Daily diversion records shall be maintained for a minimum of five years.

(I) Invasive Species Management for Reservoirs. Permittee shall implement an invasive species management plan prepared by a Biologist for any existing or proposed reservoir. The plan shall include, at a minimum, an annual survey for invasive aquatic species. The Biologist, if appropriate, shall implement eradication measures if invasive aquatic species are identified as part of the survey.

(J) No Stocking. Stocking of fish, wildlife, or plant of any kind, in any Waters of the State, including reservoir, shall be prohibited without written permission from the department pursuant to Section 6400 of the Fish and Game Code.

(k) Reporting Requirements. Permittee shall submit the reports described below in electronic form to the department through the website for the department's Lake and Streambed Alteration Program at: <https://www.wildlife.ca.gov/Conservation/LSA>.

(1) Project Completion Report. Permittee shall submit to the department a Project Completion Report for any Authorized Activity that includes construction within 30 days of completing the activity. The report shall include the following:

(A) The beginning and ending dates of the Authorized Activity.

(B) Before and after photographs. Photographs shall include the staging area, access area, and stream facing upstream, downstream, and perpendicular.

(2) Water Diversion and Use Reports. For each Water Diversion, Permittee shall submit to the department a copy of each report Permittee must submit to the State Water Resources Control Board in accordance with Sections 910–938 of Title 23 of the California Code of Regulations on the same date Permittee submits the report to the Board while the Water Diversion is authorized under this General Agreement.

(3) California Natural Diversity Database Observations. Permittee shall submit to the department all observations of Species of Greatest Conservation Need to the California Natural Diversity Database.

(l) Liability. Permittee shall be solely liable for any violations of the measures and requirements herein that apply to the Authorized Activity, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to complete or conduct the Authorized Activity.

(m) Suspension and Revocation.

(1) The department may suspend or revoke in its entirety the department's authorization of a Permittee's Covered Activity if the department determines:

(a) Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not acting in compliance with this General Agreement. Noncompliance may include, but is not limited to, failure of Permittee to implement the Authorized Activity as prescribed in this General Agreement.

(b) The Authorized Activity was not eligible under the General Agreement.

(2) Nothing herein precludes the department from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the department's authorization of a Permittee's Covered Activity.

(n) Period of Authorization.

(1) Authorization of a Covered Activity under this General Agreement shall expire five years after the date the department authorizes the activity under subsection (g), unless the department extends the period of authorization prior to expiration.

(2) Upon expiration of the department's authorization, Permittee shall be responsible for complying with Section 1602 of the Fish and Game Code before continuing the Authorized Activity or conducting a Covered Activity.

(o) Expiration of General Agreement. This Section 722 shall remain in effect only until January 1, 2023, unless the department repeals this section or extends this date before this section expires.

Authority: Sections 1602, 1617, Fish and Game Code. Reference: Sections 1602, 1617, Fish and Game Code.