

TITLE 14. DEPARTMENT OF FISH AND GAME

§ 699.5. Fees for Lake and Streambed Alteration Agreements.

(a) Definitions. For purposes of this section, the following definitions apply:

(1) "Activity" means any activity that by itself would be subject to the notification requirement in subdivision (a) of Section 1602 of the Fish and Game Code.

(2) "Agreement" means a lake or streambed alteration agreement issued by the department.

(3) "Agreement for routine maintenance" means an agreement that:

(A) covers only multiple routine maintenance projects that the entity will complete at different time periods during the term of the agreement; and

(B) describes a procedure the entity shall follow to complete any maintenance projects the agreement covers.

(4) "Agreement for timber harvesting" means an agreement of five years or less that covers one or more projects that are included in a timber harvesting plan approved by the California Department of Forestry and Fire Protection.

(5) "Department" means the California Department of Fish and Wildlife.

(6) "Extension" means either a renewal of an agreement executed prior to January 1, 2004, or an extension of an agreement executed on or after January 1, 2004.

(7) "Major amendment" means an amendment that would significantly modify the scope or nature of any project covered by the agreement or any measure included in the agreement to protect fish and wildlife resources, or require additional environmental review pursuant to Section 21000 et seq. of the Public Resources Code or Section 15000 et seq., Title 14, California Code of Regulations, as determined by the department.

(8) "Master agreement" means an agreement with a term of greater than five years that:

(A) covers multiple projects that are not exclusively projects to extract gravel, sand, or rock; not exclusively projects that are included in a timber harvesting plan approved by the California Department of Forestry and Fire Protection; or not exclusively routine maintenance projects that the entity will need to complete separately at different time periods during the term of the agreement and for which specific detailed design plans have not been prepared at the time of the original notification; and

(B) describes a procedure the entity shall follow for construction, maintenance, or other projects the agreement covers.

(C) An example of a project for which the department would issue a master agreement is a large-scale development proposal comprised of multiple projects for which specific, detailed design plans have not been prepared at the time of the original notification. The master agreement will specify a process the department and entity will follow before each project begins and may identify various measures the entity will be required to incorporate as part of each project in order to protect fish and wildlife resources. The process specified in the master agreement may require the entity to notify the department before beginning any project the agreement covers and to submit the applicable fee. After the department receives the notification, it will confirm that the master agreement covers the project and propose measures to protect fish and wildlife resources in addition to any included in the master agreement, if such measures are necessary for the specific project. By contrast, if the large-scale development proposal is comprised of, for example, multiple residences, golf courses, and associated

infrastructure projects for which specific, detailed design plans have been prepared by the time the entity notifies the department and the entity is ready to begin those projects, the entity may obtain a standard agreement only.

(9) "Master agreement for timber operations" means an agreement with a term of greater than five years that:

(A) covers timber operations on timberland that are not exclusively projects to extract gravel, sand, or rock; not exclusively projects that are included in a timber harvesting plan approved by the California Department of Forestry and Fire Protection; or not exclusively routine maintenance projects that the entity will need to complete separately at different time periods during the term of the agreement; and

(B) describes a procedure the entity shall follow for construction, maintenance, or other projects the agreement covers. For the purposes of this definition, "timberland" and "timber operations" have the same meaning as those terms are defined in sections 4526 and 4527 of the Public Resources Code, respectively.

(10) "Minor amendment" means an amendment that would not significantly modify the scope or nature of any project covered by the agreement or any measure included in the agreement to protect fish and wildlife resources, as determined by the department, or an amendment to transfer the agreement to another entity by changing the name of the entity to the name of the transferee.

(11) "Project" means either of the following as determined by the department:

(A) One activity. An example of such a project is one that is limited to the removal of riparian vegetation at one location along the bank of a river, stream, or lake that will substantially change the bank.

(B) Two or more activities that are interrelated and could or will affect similar fish and wildlife resources. An example of such a project is the construction of one bridge across a stream that requires the removal of riparian vegetation, the installation of abutments in or near the stream, and the temporary de-watering of the stream using a diversion structure. Each of those three activities together would constitute one project for the purpose of calculating the fee under this section because they are all related to the single purpose of constructing one bridge at one location. By contrast, the construction of three bridges and two culverts across a stream at five different locations would not constitute one project, but instead would constitute five projects, even if each structure were to provide access to a common development site and/or were physically connected to each other by a road.

(C) "Project" does not mean project as defined in Section 21065 of the Public Resources Code or Section 15378 of Title 14 of the California Code of Regulations.

(12) "Standard agreement" means any agreement other than an agreement for gravel, rock, or sand extraction, an agreement for timber harvesting, an agreement for routine maintenance, a master agreement, or a master agreement for timber operations.

(b) Standard Agreement.

(1) Fee if the term of the agreement is five years or less:

(A) ~~\$561.00~~ 577.25 if the project costs less than \$5,000.

(B) ~~\$704.00~~ 724.50 if the project costs from \$5,000 to less than \$10,000.

(C) ~~\$1,405.00~~ 1,446.00 if the project costs from \$10,000 to less than \$25,000.

(D) ~~\$2,109.00~~ 2,170.50 if the project costs from \$25,000 to less than \$100,000.

(E) ~~\$3,095.00~~ 3,185.25 if the project costs from \$100,000 to less than \$200,000.

(F) ~~\$4,198.00~~ 4,320.25 if the project costs from \$200,000 to less than \$350,000.

(G) ~~\$5,000.00~~ 5,145.75 if the project costs \$350,000 or more.

(2) Fee if the term of the agreement is longer than five years:

(A) ~~\$6,750.00~~ 6,946.75 base fee, plus:

1. ~~\$561.00~~ 577.25 if the project costs less than \$5,000.
2. ~~\$704.00~~ 724.50 if the project costs from \$5,000 to less than \$10,000.
3. ~~\$1,405.00~~ 1,446.00 if the project costs from \$10,000 to less than \$25,000.
4. ~~\$2,109.00~~ 2,170.50 if the project costs from \$25,000 to less than \$100,000.
5. ~~\$3,095.00~~ 3,185.25 if the project costs from \$100,000 to less than \$200,000.
6. ~~\$4,198.00~~ 4,320.25 if the project costs from \$200,000 to less than \$350,000.
7. ~~\$6,328.00~~ 6,512.25 if the project costs from \$350,000 to less than \$500,000.
8. ~~\$11,249.00~~ 11,576.75 if the project costs \$500,000 or more.

(3) For the purpose of this subsection, project cost means the cost to complete each project for which notification is required. Project costs shall include, but are not limited to, the cost of all investigations, surveys, designs, labor, and materials required to complete the project.

(4) A notification for a standard agreement should identify only one project.

(A) If an entity chooses to identify more than one project in a single notification, the fee shall be calculated by adding the separate fees for each project. For example, if a notification identifies three projects, one of which will cost less than \$5,000 to complete, one of which will cost \$7,500 to complete, and one of which will cost \$17,500 to complete, the fee for the first project would be ~~\$561.00~~ 577.25, the fee for the second project would be ~~\$704.00~~ 724.50, and the fee for the third project would be ~~\$1,405.00~~ 1,446.00. Hence, the total fee the entity would need to submit with the notification that identifies those three projects would be ~~\$2,670.00~~ 2,747.75.

(B) Notwithstanding the above, the department may require the entity to separately notify the department for one or more of the projects included in the original notification based on their type or location. If the department requires the entity to separately notify the department for one or more of the projects included in the original notification, the department shall return the original notification and fee to the entity, after which the entity may submit to the department separate notifications and a fee for each project.

(5) An entity may not obtain a standard agreement for any project identified in the notification that qualifies for an agreement for gravel, rock, or sand extraction, an agreement for timber harvesting, an agreement for routine maintenance, a master agreement, or a master agreement for timber operations unless the department agrees otherwise.

(6) Fee submittal:

(A) If the entity requests an agreement with a term of five years or less, the applicable fee specified in subsections (b)(1)(A)-(H) shall be submitted with the notification.

(B) If the entity requests an agreement with a term longer than five years, the base fee specified in subsection (b)(2)(A) and the applicable fee in subsections (b)(2)(A)1-8 shall be submitted with the notification.

(c) Agreement for Gravel, Sand, or Rock Extraction.

(1) Fee if the term of the agreement is five years or less:

(A) ~~\$1,405.00~~ 1,446.00 if the annual extraction volume identified in the notification is less than 500 cubic yards.

(B) ~~\$2,812.00~~ 2,894.00 if the annual extraction volume identified in the notification is 500 cubic yards to less than 1,000 cubic yards.

(C) ~~\$5,000.00~~ 5,145.75 if the annual extraction volume identified in the notification is 1,000 or more cubic yards.

(2) Fee if the term of the agreement is longer than five years:

(A) ~~\$28,123.00~~ 28,942.50 base fee, plus:

(B) an annual fee of ~~\$2,812.00~~ 2,894.00.

(3) Fee submittal:

(A) If the entity requests an agreement with a term of five years or less, the applicable fee in subsection (c)(1)(A)-(C) shall be submitted with the notification.

(B) If the entity requests an agreement with a term longer than five years, the base fee specified in subsection (c)(2)(A) shall be submitted with the notification, and the annual fee specified in subsection (c)(2)(B) shall be submitted as specified in the agreement.

(d) Agreement for Timber Harvesting.

(1) Pursuant to subdivision (c) of Section 4629.6 of the Public Resources Code, no fee shall be required if the department received the notification after July 1, 2013. This includes a notification made to the department pursuant to Section 1602 or Section 1611 of the Fish and Game Code.

(e) Agreement for Routine Maintenance.

(1) Fee if the term of the agreement is five years or less:

(A) ~~\$3,376.00~~ 3,474.25 base fee, plus:

(B) ~~\$281.00~~ 289.25 for each maintenance project completed per calendar year.

(2) Fee if the term of the agreement is longer than five years:

(A) ~~\$6,750.00~~ 6,946.75 base fee, plus:

(B) ~~\$281.00~~ 289.25 for each maintenance project completed per calendar year.

(3) Fee submittal:

(A) If the entity requests an agreement with a term of five years or less, the base fee specified in subsection (e)(1)(A) shall be submitted with the notification, and the project fee specified in subsection (e)(1)(B) shall be submitted as specified in the agreement.

(B) If the entity requests an agreement with a term longer than five years, the base fee specified in subsection (e)(2)(A) shall be submitted with the notification, and the project fee specified in subsection (e)(2)(B) shall be submitted as specified in the agreement.

(f) Master Agreement.

(1) Fee:

(A) ~~\$84,368.00~~ 86,826.25 base fee, plus:

1. An annual fee of ~~\$7,030.00~~ 7,234.75, unless the department specifies otherwise; and

2. ~~\$704.00~~ 724.50 for each project the agreement covers, unless the department specifies otherwise.

(2) Fee submittal:

(A) The base fee specified in subsection (f)(1)(A) shall be submitted with the notification.

(B) The annual fee and project fee specified in subsection (f)(1)(A)1-2 shall be submitted as specified in the agreement.

(g) Master Agreement for Timber Operations.

(1) Pursuant to subdivision (c) of Section 4629.6 of the Public Resources Code, no fee shall be required if the department received the notification after July 1, 2013. This

includes a notification made to the department pursuant to Section 1602 or Section 1611 of the Fish and Game Code.

(h) If an entity chooses to identify more than one project in a single notification, the total fee may exceed \$5,000 regardless of the term of the agreement.

(i) Additional Fee for Marijuana Cultivation Sites That Require Remediation.

(1) If the purpose of an agreement, or major amendment to an agreement described herein, whether in part or in whole, is to remediate a marijuana cultivation site, the entity shall submit the applicable fee below, which shall be in addition to the fee for the agreement or major amendment, in accordance with subdivision (d) of Section 12029 of the Fish and Game Code.

(2) Fee:

(A) ~~\$3,000.00~~ 3,087.50 if the total remediation area is less than or equal to 1,000 square feet as determined by the department.

(B) ~~\$5,000.00~~ 5,145.75 if the total remediation area is greater than 1,000 square feet as determined by the department.

(3) Fee submittal:

(A) The fee specified in subsection (i)(2)(A) or (B) shall be submitted with the notification or amendment request by separate check or other method of payment.

(B) The additional fees specified in subsections (i)(2)(A) and (B) shall apply only to entities notifying the department for remediation associated with a marijuana cultivation site, and in no other circumstance.

(j) Extensions for Agreements.

(1) Fee:

(A) ~~\$562.00~~ 578.25.

(2) Fee submittal:

(A) The fee specified in subsection (j)(1)(A) shall be submitted with the request for an extension.

(3) For the purpose of subsections (j), (k), and (l) an extension is not an amendment.

(k) Minor Amendments.

(1) Fee:

(A) ~~\$424.00~~ 433.25.

(B) The fee specified in subsection (k)(1)(A) shall be submitted with the amendment request.

(l) Major Amendments.

(1) Fee:

(A) ~~\$1,405.00~~ 1,446.00.

(B) The fee specified in subsection (l)(1)(A) shall be submitted with the amendment request.

(C) A project may not be added to an agreement by amendment unless the agreement specifies otherwise.

(m) California Environmental Quality Act ("CEQA").

(1) When the department is required to act as lead agency to administer and enforce Sections 1600-1616 of the Fish and Game Code, the department may charge and collect a reasonable fee from the entity to recover its estimated CEQA-related costs in accordance with Section 21089 of the Public Resources Code. The department may recover its estimated CEQA-related costs by collecting from the entity one or more deposits. The amount of the first deposit shall be at least \$1,500. The department shall refund any unused deposit to the entity.

(n) Payment of Fees.

(1) The department may refuse to process a notification, a request for an extension, or a request for a minor or major amendment until the department receives the proper fee or fees.

(o) Method of Payment.

(1) Any fee specified herein shall be made to the Department of Fish and Wildlife by check, money order, or credit card accepted by the department.

(2) To pay a fee by credit card, the department's Credit Card Payment Authorization Form (DFW 1443b (8/15)), incorporated by reference, shall be completed in full and submitted to the department with the notification form, request for an extension, or request for a minor or major amendment, unless the fee is paid in person at one of the department region offices. The form is available on the internet at: www.wildlife.ca.gov/Conservation/LSA.

(3) If the fee is paid by credit card, the department shall assess a separate credit card processing fee of 1.6% to recover handling costs and credit card company charges.

(p) Refunds.

(1) The department may not refund or return any fee specified herein except as specified below.

(A) If an entity requests an agreement with a term longer than five years and the department denies the entity's request, the department shall return the fees paid and instruct the entity to submit the applicable fee for an agreement with a term of five years or less.

(B) If an entity identifies more than one project in a single notification, and the department requires the entity to separately notify the department for one or more of the projects in accordance with subsection (b)(4)(A), the department shall return to the entity the fee with the original notification.

(C) If after receiving a notification the department determines that the fee submitted was more than the amount required, the department shall refund to the entity the excess amount.

(D) If after receiving a notification the department determines that notification is not required because the project is not subject to subdivision (a) of Section 1602 of the Fish and Game Code, the department shall refund to the entity any fees submitted with the notification.

(q) Type of Agreement.

(1) The department shall determine at its sole discretion the type of agreement the entity may obtain for a project or projects.

Note: Authority cited: Sections 713, 1609 and 12029, Fish and Game Code; and Section 21089, Public Resources Code. Reference: Sections 713, 1605, 1609 and 12029, Fish and Game Code; and Sections 4629.6(c) and 21089, Public Resources Code.