

**MEMORANDUM OF
UNDERSTANDING**

by and between

Landowner and

**CALIFORNIA DEPARTMENT OF FISH AND
WILDLIFE**

This California Endangered Species Act Memorandum of Understanding ("CESA MOU") is made and entered into by and between ~~Inchewan-Cali~~ (Landowner) and the California Department of Fish and Wildlife (hereinafter called the "DFW").

The purpose of this CESA MOU is to provide a framework for cooperative activities and studies that involve or address issues of importance to the Scott River coho salmon (*Oncorhynchus kisutch*). This CESA MOU provides for take associated with actions taken by the DFW to rescue and relocate coho salmon as a management activity under authority of Section 2081(a) of the California Fish and Game Code.

W I T N E S S E T H

WHEREAS, the CDFW has jurisdiction over the conservation and protection of fish, wildlife, and native plants and their habitats necessary for biologically sustainable populations of those species and holds those resources in trust for the people of California (California Fish and Game Code Section 1802).

WHEREAS, coho salmon are classified as a threatened species by the State of California Fish and Game Commission pursuant to the California Endangered Species Act (CESA, California Fish and Game Code section 2050 et seq.).

WHEREAS, Fish and Game Code section 2080 prohibits the import, export, take, possession, purchase or sale of any species, in whole or in part, that has been listed as threatened or endangered by the California Fish and Game Commission. Take is defined in Fish and Game Code section 86 as 'hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill.' However, Fish and Game Code section 2081(a) allows DFW to authorize take and other acts prohibited by Fish and Game Code section 2080 for scientific, educational, or management purposes. This CESA MOU authorizes a limited level of take of coho salmon for management purposes.

WHEREAS, on January 17, 2014 Governor Brown issued a proclamation declaring the state to be in an emergency due to the drought conditions.

WHEREAS, on April 25, 2014, Governor Brown issued an Executive Order

directing state agencies to, in part, work with other state and federal agencies and landowners in priority watersheds to protect threatened and endangered species and species of special concern and maximize the beneficial uses of scarce water supplies, including employment of voluntary agreements to secure instream flows, relocate members of those species or take other measures.

WHEREAS conditions on the Scott River and its tributaries are poorer than is typical for this time of year and may deteriorate such that listed juvenile coho salmon will need to be relocated to areas with more suitable conditions in the watershed to prevent mortality of those CESA-listed fish.

WHEREAS, Landowner owns real property in the Scott River watershed more particularly described as (Real Property) Add parcel number and river mile here APN: 023-160-230

WHEREAS, the Real Property is adjacent to the Scott River, which has suitable habitat for listed coho salmon. Landowner is willing to participate with the DFW in fish rescue and relocation activities, by allowing access to the Real Property for the purposes of capturing and removing, or relocating juvenile coho salmon on or to Scott River adjacent to the Real Property.

WHEREAS, NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Methods

a. DFW or its agent will carry out all monitoring and fish capture and relocation activities in accordance with standard fishery practices. DFW, or its agent, will notify Landowner, at least 24 hours in advance, at the telephone number listed below, of all planned monitoring and fish rescue/relocation activities it will carry out on the Real Property. Those activities may include:

1) Monitoring of habitat conditions in the Scott River and salmonid abundance, size, and condition prior to relocation of salmonids at risk, including coho salmon;

2) Upon determination that stream flow and temperature conditions for salmonids, including coho salmon, are deteriorating in the Scott River watershed, or upon reasonable projections of same, DFW will capture and remove salmonids, including coho, from the Scott River adjacent to Landowner's Real Property and relocate those salmonids to suitable habitat elsewhere in the watershed;

3) Relocating juvenile salmonids, including coho salmon, captured from elsewhere in the Scott River watershed, to the Scott River adjacent to Landowners Real Property if suitable aquatic habitat for summer rearing conditions are then occurring in those waters; or

4) Monitoring stream depth and temperature at relocation site(s) post-relocation to determine if conditions remain adequate to keep salmonids alive and provide for salmonid passage.

2. Landowner Commitments Regarding Fish Management Activities on the Real Property

a. Landowner agrees to provide reasonable access to DFW and its agents, including equipment access, to the Real Property to carry out any of the management activities listed in Section 1 of this CESA MOU for the purposes of:

- 1) Monitoring habitat conditions and coho salmon abundance, size, and condition prior to any management activities;
- 2) Capturing and removing coho salmon from and/or relocating fish to suitable habitat, and for monitoring conditions post-relocation; or
- 3) Monitoring stream flow conditions post-rescue/relocation to determine if conditions remain adequate to keep fish alive and provide for passage.

b. Landowner agrees to abide by Title 14 California Code of Regulations, Article 6, Section 916.9 (936.9, 956.9): *"Protection and Restoration of the Beneficial Functions of the Riparian Zone in Watersheds with Listed Anadromous Salmonids"* as a condition of this MOU, according to the type of diversion activities conducted at a particular site.

c. Landowner agrees to provide reasonable access over the Real Property to allow DFW and its agents to either capture coho salmon or allow captured coho salmon to be placed in the Scott River, adjacent to the Real Property. Landowner also grants access to the Real Property to DFW and its agents to carry out the management activities described in this CESA MOU for the purposes of monitoring habitat conditions, possibly later capturing and removing fish from and/or relocating fish to suitable habitat, and for monitoring conditions post-relocation.

DFW agrees that DFW and its agents will conduct all rescue/relocation activities only after DFW has provided the advance notice to Landowner, as provided in Section 1 above.

3. Authorized Take Level

Coho salmon: The number of coho salmon which may die in the course of fish capture and relocation activities conducted by DFW is typically small (less than 10%) and is much-reduced from levels of mortality that will potentially occur in absence of carrying out this activity. As such, fish mortalities related to, or occurring in the course

of, fish rescue activities is authorized.

4. Federal Endangered Species Act

The Southern Oregon Northern California coho salmon is listed as a threatened species under the federal Endangered Species Act (ESA) of 1973. DFW has a permit from the National Marine Fisheries Service (NMFS) that allows DFW, its employees and its designees to perform the rescue activities listed in Section 1 above. Landowner is not expected or authorized to assist in the handling of coho salmon as a part of the fish rescue effort. Nothing in this CESA MOU authorizes any action pursuant to the federal ESA.

5. Effective Date and Termination

Unless terminated sooner by either party of the CESA MOU by giving thirty (30) days prior written notice of earlier termination, this CESA MOU shall commence on the date of execution and will terminate on **December 31, 2014** both days inclusive.

6. Amendments

Amendments to this CESA MOU may be proposed by either party and shall become effective when both parties sign a written modification to this document.

7. Disclaimer

The DFW shall incur no fiscal obligation under this CESA MOU.

8. Authority


The undersigned represents that they have the authority to, and do, bind the person or entity on whose behalf and for whom they are signing this CESA MOU.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS CESA MOU TO BE IN EFFECT AS OF THE DATE LAST WRITTEN BELOW.



Landowner
Chris Chase, Timberland MS
Date: 6/6/14
Phone Number:
Street address:

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

By 

Neil Manji, Regional
Manager, Northern Region

Date: 6/6/14