



Meeting: **Joint Reservoir Committee & Authority Board**      **December 16, 2022**  
**Agenda Item 3.1**

Subject: **Master Lake & Streambed Alteration Agreement**

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**Requested Action:**

Review and comment on the Project's approach for complying with the State's Lake and Streambed Alteration requirements in the form of a near term Master Agreement followed up with site specific agreements through construction.

**Detailed Description/Background:**

Fish and Game Code Section 1602 requires any entity to notify the California Department of Fish and Wildlife (CDFW) before beginning any activity that will substantially divert or obstruct the natural flow, change or use material from the bed, channel, or bank, or deposit or dispose of debris, waste, or other material into any river, stream, or lake. This notification is part of an application-like process. In Sites case, CDFW will evaluate the notice and likely determine a Lake and Streambed Alteration Agreement (Agreement) is necessary which then will initiate development of an Agreement.

Given the scope of the effects and the multi-year nature of the work, the Sites Project is proposing to use a programmatic approach under a Master LSA Agreement. A Master LSA Agreement covers projects like Sites where the detailed design drawings and specific construction means and methods for each individual feature have not been prepared or finalized at the time of the original LSA notification. A Master LSA Agreement would be issued by CDFW with agreed upon avoidance, minimization and compensatory mitigation requirements along with requirements for sub-notifications and a process for expeditious processing of sub-agreements covering specific sites. The Master LSA Agreement results in benefits to the Project by: (1) reducing future uncertainty by establishing an agreed upon program including avoidance, minimization and compensatory mitigation requirements for all future Project sub-agreements; and (2) avoiding construction delays by clearly outlining expectations, including timelines for all parties in the sub-agreement process. Staff have discussed this approach informally with CDFW staff and it appears they would be amendable to using it for the Project.

A Master LSA notification packet for the Project is in preparation. The Master LSA notification packet requests a term of no less than 10 years. The Master LSA notification packet proposes to include the same avoidance, minimization and compensatory mitigation measures as were included in the Revised Draft

EIR/Supplemental Draft EIS (as may be slightly modified based on comments for the Final EIR/EIS). The Master LSA notification packet is proposing a process whereby as sufficient certainty of detailed design and construction means and methods are determined, the Authority would submit sub-notifications for groups of activities. After CDFW receives each sub-notification, they will confirm that the Master LSA Agreement covers the activities described and that the sub-notification proposes measures to protect fish and wildlife resources included in the master agreement, along with any additional measures specific to the unique activity, if necessary are sufficient. The timing of the measures being in place relative to commencing construction of the activities covered in the sub-agreement is a key concern for the Project and will be subject to further discussion with CDFW. With the scale of the measures to be implemented, in particular the land-based mitigation purchases that will be needed, it is important that there be some flexibility to the precedents to starting construction. The Authority's interest is in making the totality of the mitigation values as meaningful as possible and is concerned that rushing to 'check the box' on mitigation could result in a lesser outcome for the Project and the environment.

The initial filing fee for processing a Master LSA Agreement are not expected to exceed \$100,000. Additional fees include an annual fee of approximately \$8,500 for each year the Master LSA Agreement is in place and a \$860 per sub-notification fee that will be paid as sub-notifications are submitted to the CDFW. The 2023 fee schedule was not available as of the drafting of this staff report. The fees provided here are based on 2022 fees plus 5% and fees generally increase annually.

As the lack of access to private land has prevented recent biological and aquatic surveys of the Project area, aerial interpretation of landcover and water features was used to estimate landcover and lake and stream resources potentially subject to Fish and Game Code 1602 regulation. Table 1 summarizes the estimated impacts and will be revised as access to the Project area allows surveys to verify and refine the interpreted lake and stream resources and estimated effects. Staff believe that the values presented in Table 1 are overestimated and would be refined down with surveys.

**Table 1: Estimated Impacts to Lake and Stream Resources Resulting from Construction of the Project**

	Permanent Direct		Permanent Indirect		Temporary Direct		Total Area (acres)	Total Length (linear feet)
	Area (acres)	Length (linear feet)	Area (acres)	Length (linear feet)	Area (acres)	Length (linear feet)		
<b>Lake and Stream Resources Subject to FGC 1602</b>								
Canal	3.50	2,568			0.66	1,008	4.16	3,576
Ditch	0.37	3,413	0.31	2,750	0.15	755	0.83	6,918
Ephemeral Stream	6.06	77,787	16.26	215,044	0.39	4,210	22.71	297,042
Forested Wetland	1.01	--	1.96	--	0.30	--	3.27	--
Freshwater Marsh	13.24	--	29.48	--	6.29	--	49.02	--
Intermittent Stream	29.91	86,884	169.49	477,423	1.72	9,098	201.13	573,405
Managed Wetland	--	--	--	--	0.69	--	0.69	--
Pond	4.44	--	34.57	--	1.45	--	40.46	--
Reservoir	1.35	--	--	--	220.94	--	222.29	--
Scrub-Shrub Wetland	0.85	--	5.26	--	0.34	--	6.44	--
Seasonal Wetland	68.10	--	222.62	--	3.84	--	294.5	--
Riparian	7.22	--	41.89	--	1.77	--	50.88	--
Annual Grassland	10.25	--	78.18	--	0.27	--	88.70	--
Blue Oak Woodland	0.00	--	0.30	--	--	--	0.30	--
Oak Savanna	0.00	--	0.89	--	--	--	0.89	--
Ruderal	--	--	0.12	--	--	--	0.12	--
<b>Grand Total</b>	<b>146.30</b>	<b>170,652</b>	<b>601.33</b>	<b>695,218</b>	<b>238.82</b>	<b>15,071</b>	<b>986.45</b>	<b>880,941</b>

-- = null value (zero)

Land cover was mapped via aerial interpretation using desktop imagery.

Not all land cover types listed above would be subject to California Fish and Game Code Section 1602 jurisdiction.

Rounding errors may affect total.

Values presented are approximate and likely represent a conservative overestimate of impacts. Actual impacts would be verified once land access is obtained and land surveys are completed.

Staff continues to work with the permitting team to finalize the Master LSA notification packet which is expected to be complete in early 2023. Prior to submittal of the notification packet, staff will seek Reservoir Committee and Authority Board approval.

**Prior Action:** None.

**Fiscal Impact/Funding Source:** Efforts to prepare the application and work with CDFW to receive the Master Agreement are covered in the Amendment 3 Work Plan.

**Staff Contact:** John Spranza/Ali Forsythe

**Primary Service Provider:** ICF and HDR

**Attachments:** None