

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
BAY DELTA REGION
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534



STREAMBED ALTERATION AGREEMENT
EPIMS-SJN-26117-R3
San Joaquin River

PORT OF STOCKTON
PORT OF STOCKTON DOCK 7/8 FENDER REPLACEMENT AND STRUCTURAL
REPAIRS PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Port of Stockton (Permittee) as represented by Jason Cashman.

RECITALS

WHEREAS, pursuant to Fish and Game Code section 1602, Permittee notified CDFW on December 29, 2021 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to Fish and Game Code section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

The project is located at San Joaquin River, in the County of San Joaquin, State of California; Latitude 37.950330, Longitude -121.326807; at Dock 7/8 on the Port of Stockton's East Complex, at the intersection of Port Road B and Port Road 4; Assessor's Parcel Number 145-020-040. See Exhibit A (Site and Vicinity Map).

PROJECT DESCRIPTION

The project is limited to replacement of dock fenders and structural repairs at Dock 7/8. Structural repairs include damaged rebar and concrete repair, replacement of concrete beams and dock concrete, repair of bollards, and concrete column repair, and replacement of fender supports. All existing piles will remain in place.

The staging area is located immediately upland of the work area and in the covered warehouse; both are disturbed areas covered in concrete. The majority of the construction access will occur from land, but waterside access via barge may be needed.

A temporary waterproof formwork will be installed first to ensure no concrete or construction materials contact the San Joaquin River. Installation of non-treated wood or steel piles is required to support the formwork. These poles will be attached to existing pile caps during low tide, after which the formwork will be mounted to the support poles. See Exhibit B (Waterproof Formwork). The temporary poles to support the formwork will be in contact with the water, but the formwork will be positioned above the mean high water (MHW) elevation.

Removal activities will occur by crane, backhoe, excavator, or forklift, using straps. The equipment will be positioned in an adjacent upland construction staging area or on a barge. Dock concrete and beam components will be removed in segments. The debris from the removal activities will be temporarily stockpiled in the upland construction staging area and disposed of off-site at an approved facility. Once removal activities are completed, repair activities will commence, including rebar and concrete repairs, beam replacement, dock concrete replacement, and column and bollard repairs. All structural repair activities will occur above MHW.

Damaged Rebar and Concrete Repairs

Rust will be removed from rebar, the concrete will be brushed to a sound surface, the rebar will be reinforced, and the beams will be patched with concrete to restore their original shape. See Exhibit C (Fender Replacement Repair Plans), labelled A and B, for the specific location of these repairs.

Concrete Beam Replacement

Existing beams will be cut at each end and removed, then replaced with concrete beams. The concrete beam replacements, (measuring two (2) feet wide by 10 inches deep) will be structurally reinforced with rebar attached to an embedded epoxy component. See Exhibit C (Fender Replacement and Repair Plans), labelled C, for the specific location of these repairs.

Dock Concrete Replacement

The existing seven (7)-inch-thick concrete dock will be removed and replaced with new concrete decking. Similar to how the existing beams will be replaced, the decking will be replaced with concrete decking that is structurally reinforced with rebar attached to two (2) embedded epoxy components. See Exhibit C (Fender Replacement and Repair Plans), labelled D, for the specific location of these repairs.

Bollard Repairs

The existing unstable bollards will be attached to the existing dock with one-(1)-inch bolts. See Exhibit C (Fender Replacement and Repair Plans), labelled F for the specific location of these repairs.

Concrete Column Repairs

Broken concrete columns will be repaired by removing any rust on the rebar, brushing the concrete to a sound surface, reinforcing the rebar, and patching the columns with concrete to restore their original shape. See Exhibit C (Fender Replacement and Repair Plans), labelled G for the specific location of these repairs.

Construction equipment will include a crane, backhoe, excavator, forklift, small boats, scaffolding/falsework, hand tools (including a concrete cutting saw and jackhammers), and possibly a barge.

Wooden and Rubber Fender Replacement

Approximately 32 wooden and rubber fenders run along the waterside of Dock 7/8. The dimensions of the existing thirty (30) wood fenders are approximately 12 inches by 12 inches and the six (6) existing rubber fenders are large tires that are approximately five (5) to six (6) feet in diameter. The existing wooden and rubber fenders will be removed and replaced with 11 rubber fenders. Approximately 5- to 8-foot-wide supports will be attached to the dock on which the rubber fenders will be mounted. Then a four (4)-foot-wide by six (6)-foot-long cylindrical rubber fender will be attached to chains that will be mounted horizontally to the supports.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: Delta Smelt (*Hypomesus transpacificus*), Longfin Smelt (*Spirinchus thaleichthys*), green sturgeon (*Acipenser medirostris*), fall-run Chinook salmon (*Oncorhynchus tshawytscha*), spring-run Chinook salmon (*O. tshawytscha*), western pond turtle (*Emys marmorata*), giant garter snake (*Thamnophis gigas*), Swainson's hawk (*Buteo swainsoni*), white-tailed kite (*Elanus leucurus*), nesting birds, and marine mammals.

The adverse effects the project could have on the fish or wildlife resources identified above without implementation of the Measures to Protect Fish and Wildlife Resources specified below, include: short-term release of contaminants incidental to construction, change in pH if concrete enters the water, temporary behavioral effects such as avoidance responses, and temporary disruption to nesting birds and other wildlife.

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the 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 the Agreement and any extensions and amendments to the 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 provision in the 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 the Agreement. Permittee shall provide the necessary safety equipment that is required for site entry upon request from CDFW personnel.
- 1.5 Consistency with Notification. All work shall be completed in accordance with the plans, figures, and project description submitted with the project notification, unless the project has been modified through mutual agreement between CDFW and the Permittee. Permittee agrees to notify CDFW of any modifications made to the project plans submitted to CDFW on March 10, 2022. If Permittee wishes to modify the project described in this Agreement, CDFW shall first be notified, and an amendment or new notification may be required.
- 1.6 Prohibition on Take of Listed Species. This Agreement does not authorize the take or incidental take of any State or Federal listed threatened or endangered listed species. State Listed or Fully Protected Species includes 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). The Permittee is required, as prescribed

in these laws, to consult with the appropriate agency prior to commencement of the project.

- 1.7 Mitigation Consistent with San Joaquin Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Permittee shall ensure that biological survey and construction monitoring requirements are implemented as prescribed in the SJMSCP if the project participates in the SJMSCP (instead of adhering to Avoidance and Minimization Measure 2.14 (Preconstruction Surveys and Nest Buffers for Swainson's Hawk)). Mitigation for western pond turtle, giant garter snake, and Swainson's hawk will be implemented by participation in the SJMSCP. Permittee shall compensate for impacts to habitat through payment of the appropriate fees as required by the terms of the SJMSCP. Proof of payment/SJMCS coverage shall be uploaded to the EPIMS data portal prior to project initiation.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

Work Periods and Preconstruction Notice

- 2.1 Seasonal Work Period. To minimize adverse impacts to fish and wildlife and their habitats, project activities below the high-water mark shall be limited to the period between **August 1 to November 30**. The pouring or use of concrete products (e.g., grouting, pumped concrete, etc.) shall be limited to the period between **August 1 and October 31**.

If Permittee needs more time to complete project activities, work may be authorized outside of the work period and extended on a weekly or day-to-day basis by CDFW. Permittee shall submit a written request for work period variance to CDFW Environmental Scientist Andrea Boertien, at Andrea.Boertien@wildlife.ca.gov. The work period variance request shall: (1) describe the extent of the work already completed; (2) detail the activities that remain to be completed; (3) detail the time required to complete each of the remaining activities; (4) provide photographs of both the current work completed and the proposed site for continued work; and (5) provide a weather forecast for the variance period. Any work period variance request should consider the effects of increased stream flows, rain delays, increased erosion control measures, limited access due to saturated soil conditions, and limited growth of hydroseed application due to cool weather. Work period variances are issued at the discretion of CDFW. CDFW will review the written request to work outside of the established work period and may require additional measures to protect fish and wildlife

resources as a condition for granting the variance. Any additional measures shall be made part of this Agreement.

- 2.2 Daily Work Window. Permittee shall terminate all project activities covered under this Agreement 30 minutes before sunset and shall not resume until 30 minutes after sunrise unless otherwise by the Qualified Biologist. Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area: <https://gml.noaa.gov/grad/solcalc/>.
- 2.3 Work in Dry Weather Only. Work within and adjacent to the river shall be restricted to periods of low rainfall (less than 0.1 inch per 24-hour period). Precipitation forecasts and potential increases of stream flow shall be considered when planning construction activities. Construction activities shall cease, all equipment and materials shall be removed from the channel (except the waterproof formwork), and all associated erosion control measures shall be in place at least 12 hours prior to the onset of precipitation to prevent leakage of concrete or other construction material from entering the river. No work shall occur during a precipitation event. Construction activities halted due to precipitation may resume when precipitation ceases, the National Weather Service 72-hour weather forecast indicates a 30% or less chance of precipitation, and after a dry-out period of 48 hours for rain events (i.e., 0.25 inches within a 24-hour period). The National Weather Service forecast can be found at: <http://www.weather.gov>.
- 2.4 Daylight Limitation. Permittee shall terminate all project activities at 30 minutes after sunset and shall not resume until 30 minutes before sunrise unless otherwise approved in writing by CDFW. Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area (<http://www.esrl.noaa.gov/gmd/grad/solcalc/sunrise.html>).

Biological Monitoring

- 2.5 Qualified Biologist. At least 30 days prior to initiating wildlife surveys within the project site, Permittee shall submit the names and resumes of all biological personnel involved in conducting survey and/or monitoring work to CDFW for review and written approval. Permittee shall use Exhibit D (Biologist Resume Form) or another format containing the same information. Biological personnel are defined under this Agreement as follows:
- 2.5.1 A Qualified Biologist is an individual who shall have a minimum of five (5) years of academic training and professional experience in biological sciences and related resource management activities with a minimum of two

(2) years' experience conducting surveys for each species that may be present within the project area.

2.5.3 A Biological Monitor is an individual who shall have a minimum of two (2) years of academic and professional experience in biological sciences and related resource management activities relevant to this project, has experience with construction level biological monitoring, the ability to recognize species in the project area, and who is familiar with the habits and behavior of those species.

2.6 Biological Monitoring. A Qualified Biologist shall be on-site for the entirety of the project portions specified in Measure 2.7 (Qualified Biologist and Biological Monitor On-site Monitoring Requirements). For the remainder of the project, a Biological Monitor shall be on site at all times. The Qualified Biologist shall be made available to arrive on site within one (1) to two (2) hours when not required on-site by the terms of this Agreement. If the Qualified Biologist appoints a Biological Monitor to oversee work activities, the Biological Monitor shall have training in avoidance and minimization measures specific to special-status species potentially present at the site. At a minimum, the Biological Monitor shall have attended the training specified in this Agreement. If asked by CDFW or another agency, the Biological Monitor shall be able to demonstrate familiarity with the terms and conditions of this Agreement.

2.7 Qualified Biologist On-Site Monitoring Requirements. A Qualified Biologist shall be present at the project site during all initial activities such as installation of the waterproof formwork in areas that are underwater during high tide; concrete work within 60 linear feet from the water's edge; nest monitoring (if necessary); wildlife relocations (if necessary), and marine mammal monitoring. Biological Monitors shall be on-site including, but not limited to, daily clearance surveys; inspection of pipes, hoses, or other construction-related objects that could shelter wildlife; ensuring proper placement and inspection of best management practices concerning erosion control; monitoring hazardous materials adjacent to, on, or over the channel; and when the Qualified Biologist deems the presence of a Biological Monitor necessary.

2.8 General Cease Operations Authority. The Qualified Biologist or Biological Monitor shall have independent authority to stop any and all work if any special-status species enters the project area, if project activities pose imminent threat to fish and wildlife resources, or if project activities are out of compliance with the measures outlined in this Agreement. If a special-status species is observed within the project site, then all work shall halt and not continue until the wildlife leaves the area on its own accord. The appropriate distance shall be determined by the Qualified Biologist and/or Biological Monitor at the time of discovery. The Qualified Biologist

or Biological Monitor shall identify the animal to species and include the record of detection in the daily monitoring log.

If the Qualified Biologist or Biological Monitor witnesses a violation of this Agreement, they shall contact CDFW immediately. Permittee shall not enter into non-disclosure agreements with biological staff or otherwise implement penalties or disincentives restricting direct communication with CDFW. Failure to consult immediately with CDFW on violations shall constitute grounds for CDFW to revoke the Biologist's monitoring authority and require Permittee to stop work until another Biologist has been approved.

- 2.9 Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the project area before performing any work. The program shall consist of a presentation from the Qualified Biologist that includes a discussion of the biology of the habitats and species identified in this Agreement and present at this site. The Qualified Biologist shall also include as part of the education program information about the distribution and habitat needs of any special status species that may be present, legal protections for those species, penalties for violations, and project-specific protection measures included in this Agreement. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the project area. Upon completion of the program, employees shall sign a form stating that they attended the program and understand all protective measures.

General Wildlife Protection

- 2.10 Daily Clearance Surveys. Each day, prior to initiation of project activities, a Qualified Biologist or Biological Monitor shall inspect the project work area, staging/stockpiling area and all equipment and vehicles. If the Qualified Biologist or Biological Monitor determines that sensitive species are not present within the work area, work may commence.
- 2.11 Habitat Protection. No tree or vegetation removal shall occur during the project. Care will be taken to leave all areas surrounding the project site undisturbed; no harm shall come to riverbanks and vegetation.
- 2.12 Open Pipes Restriction. All pipes, culverts, or similar structures with a 4-inch or greater diameter opening that are staged or stored at the site for one (1) or more overnight periods shall be securely capped on both ends prior to storage, when feasible, and thoroughly inspected for wildlife by the Qualified Biologist or Biological Monitor prior to utilization. All hollow pipes or posts installed as part of the project and exposed to the environment at a positive angle shall be capped,

screened, or filled with material by Permittee prior to the end of the workday in which the installation occurs.

Special-status and Sensitive Species Assessment and Avoidance Measures

- 2.13 Fish Protection. The temporary waterproof formwork shall be supported with piles that consist of non-treated wood or steel to prevent leaching of hazardous materials into the water. These support piles shall be installed only during low tide. After project construction is completed, the temporary formwork and the temporary support piles shall be removed only during low tide and properly disposed of at an appropriate facility. Proof of lawful disposal shall be included with the Final Completion Report pursuant to Measure 4.5 of this Agreement.
- 2.14 Western Pond Turtle Avoidance. A Qualified Biologist or Biological Monitor shall be present each day to conduct daily clearance surveys per Measure 2.10 (Daily Clearance Surveys). If a western pond turtle enters the project site, all work shall cease immediately, and the individual(s) shall be allowed to leave the area of its own accord. If the western pond turtle does not leave of its own accord, the Qualified Biologist may move the western pond turtle to safe area downstream of the project site. All relocation events must be reported to CDFW within 24 hours and be included in the annual project report.
- 2.15 Preconstruction Surveys and Nest Buffers for Swainson's Hawk. CDFW recommends conducting project activities outside of the Swainson's hawk breeding season (March 20 to September 15). If project activities will either begin or be re-initiated during the breeding season, surveys for Swainson's hawks and their nests shall be conducted by the Qualified Biologist prior to the beginning of project-related activities. Results of all surveys shall be submitted to CDFW prior to the initiation of any work under this Agreement. Surveys shall be conducted in a manner consistent with the *Recommended Timing and Methodology for Swainson's Hawk Nesting Surveys in California's Central Valley* (<https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds>). Surveys shall cover a minimum of two survey periods with the minimum number of surveys prior to project initiation as follows:
- January to March 20 - survey all day for raptor nests, with a minimum of one survey.
 - March 20 to April 5 – survey from either sunrise to 1000 or 1600 to sunset, with a minimum of three surveys.
 - April 5 to April 20 – survey from either sunrise to 1200 or 1630 to sunset, with a minimum of 3 surveys.

Alternative survey methodology specific to work within the project area may be submitted to CDFW for review and written approval at least 30 days in advance of conducting surveys. If Permittee applies for coverage with the San Joaquin Council of Governments' San Joaquin Multi-Species Habitat and Open Space Plan (SJMSCP), see Administrative Measure 1.7 (Mitigation Consistent with San Joaquin Multi-Species Habitat Conservation and Open Space Plan (SJMSCP)).the Permittee shall ensure that biological survey and construction monitoring requirements are executed as prescribed in the SJMSCP.

2.15.1 If a lapse in project-related work of seven (7) days or longer occurs within the nesting season, then a focused all-day survey shall be performed, and the results shall be sent to CDFW prior to resuming work. Surveys shall be conducted in work areas, staging and storage areas, and access routes. If any active Swainson's hawk nests are found within ½-mile of a project site, an avoidance buffer of ¼-mile in urban areas or a ½-mile buffer in non-urban areas shall be implemented from March 20 to September 15, or until the young fledge, unless otherwise approved in writing by CDFW.

2.16 Nesting Bird Surveys. If equipment staging, site preparation, or other project-related activities are scheduled during the nesting season (February 15 through September 15) of protected raptors and other avian species, a focused survey for active nests for active bird nests shall be conducted by the CDFW-approved Qualified Biologist within seven (7) days prior to the beginning of project activities and if there is a four (4) day or more lapse in project activities. Surveys shall be conducted throughout the project site, in staging, storage, and soil stockpile areas, and along transportation routes. The methodology and results of the survey shall be sent per Reporting Measure 4.3 (Biological Preconstruction Surveys) within seven (7) days of survey completion and prior to project commencement. The minimum survey radii surrounding the work area shall be the following: i) 250 feet for passerines and ii) 1,000 feet for raptors such as buteos. Surveys shall be conducted at the appropriate time of day and during appropriate nesting times and shall concentrate on areas of suitable ground- and tree-nesting habitat.

2.17 Bird Nest Protection. If active bird nests are found, the Qualified Biologist shall establish an appropriate buffer to comply with Fish and Game Code 3503. The buffer area(s) shall be fenced off from work activities and avoided until the young have fledged, as determined by the Qualified Biologist. The Qualified Biologist shall document preconstruction baseline monitoring of the nest to characterize "normal" bird behavior. The Qualified Biologist shall monitor the nesting birds daily throughout the duration of project activities and shall increase the buffer until no further interruptions to behavior are detectable if they determine the birds are showing signs of unusual or stressed behavior by project activities. Abnormal nesting behaviors which may cause reproductive harm include, but are not limited to, defensive flights/vocalizations directed towards project personnel, standing up

from a brooding position, and flying away from the nest. The Qualified Biologist shall have authority to order the cessation of all nearby project activities if the nesting birds exhibit abnormal behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young) until an appropriate buffer is established. To prevent encroachment, the established buffer(s) shall be clearly marked for avoidance. The established buffer(s) shall remain in effect until the young have fledged or the nest has been abandoned as confirmed by the Qualified Biologist. Signs of nest abandonment, as determined by the CDFW-approved Qualified Biologist, shall be reported to CDFW within 24 hours. Notification shall be made to Andrea Boertien by email at Andrea.Boertien@wildlife.ca.gov.

2.18 Marine Mammal Avoidance. Prior to the commencement of dock repair activities, the Qualified Biologist or Biological Monitor shall ensure that no marine mammals are within a 500-meter buffer around the project site. If marine mammals are found within the project site or buffer, no in-water construction activities, such as the construction of the waterproof formwork, shall commence until the animal has left of its own accord.

2.17.1 When either setting or retracting spud piles from the barge, a check for marine mammals within the immediate vicinity shall be performed by the Qualified Biologist, Biological Monitor, or crew members, and if any are observed, spud barge movement activities shall be delayed until the animal(s) has left the buffer of its own accord.

Erosion Control for Water Quality

2.19 Erosion Control Best Management Practices (BMPs). All exposed soils within the work area shall be stabilized immediately during project activities, or prior to rain events to prevent erosion of soil or construction materials (such as concrete) into the river. Erosion control measures, such as silt fences, straw wattles, gravel- or rock-lined ditches, water check bars, and broadcasted straw, or other appropriate materials, shall be used. Erosion control measures shall be monitored during and after each storm event for effectiveness. Modifications, repairs and improvements to erosion control measures shall be made as needed to protect water quality. At no time shall silt-laden or contaminated runoff be allowed to enter the channel or directed to where it may enter the channel.

2.20 Erosion Control Material Limitation. To minimize the risk of ensnaring snakes and other wildlife, Permittee shall not use erosion control materials containing synthetic (e.g., plastic or nylon) monofilament netting or cross joints in the netting that are bound/stitched. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as coconut (coir) fiber, or other products without welded or tight weaves.

- 2.21 Containment. The temporary waterproof framework shall be utilized during all construction activities to prevent any project materials from contacting the water. Netting, sandbags, tarps, or other barrier forms shall be placed around the staging areas to prevent debris and runoff from entering the river. If any debris or trash enters the water, it shall be retrieved immediately for proper handling and disposal.

Equipment and Vehicles

- 2.22 Staging Areas and Equipment. Staging areas shall be located in a dry upland location, 60 linear feet or more from above the top of bank and proper measures shall be installed to avoid runoff into water systems. Staging areas shall be within a paved or gravel-lined site. Any equipment or vehicles driven and/or operated in proximity of the river shall be checked daily and maintained in good working order to prevent the release of contaminants that, if introduced to water, could be deleterious to aquatic life, wildlife, or riparian habitat. If a vehicle is found to be leaking fluids of any kind, it shall be taken to an off-site location immediately. Vehicles shall be moved away from the creek and ephemeral tributary prior to refueling and lubrication.
- 2.23 Decontamination. Any equipment that will contact the water during project activities shall be decontaminated prior to arriving on the project site, after the project is finished, and any time project equipment leaves and returns to the site to prevent the spread of aquatic diseases and invasive aquatic species to other waterways. Workers shall also decontaminate waders, boots, and other clothing that will come in direct contact with the water prior to arriving on the project site, after the project is finished, and any time work apparel is used off-site and is to be used on the project site again. Decontamination of clothing and equipment shall be done through one (1) or more of the following methods:
- 2.23.1 Drying equipment in an upland location following last aquatic use. If average daytime temperatures exceed 80 degrees Fahrenheit, drying times shall be at least 7 (seven) days. If average daytime temperatures are below 80 degrees Fahrenheit, drying times shall be at least 30 days.
 - 2.23.2 Scalding water wash of at least 140 degrees Fahrenheit that includes varying high and low-pressure spray to dislodge pathogens, vegetation, and contaminated sediment.
 - 2.23.3 Freezing at a temperature of less than 32 degrees Fahrenheit for more than 72 hours.
 - 2.23.4 Soaking in a CDFW-approved disinfectant solution for at least 2 (two) minutes or longer, depending on the disinfectant used. To avoid harm to

non-target species, disinfected clothing and equipment shall be thoroughly rinsed in a water bath before entering project areas.

2.24 Stationary Equipment Leaks. Permittee shall ensure that stationary equipment such as motors, pumps, and generators are located within or adjacent to the river are positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill or leak. Hydraulic attachments shall be placed on plywood or another non-porous surface and covered with plastic or comparable material prior to the onset of rain to prevent “run-on” and runoff.

Toxic and Hazardous Materials

2.25 Hazardous Materials. Debris, soil, bark, slash, sawdust, rubbish, creosote-treated wood, oil or other petroleum products, concrete, or any other substances which could be hazardous to aquatic life, wildlife, or riparian habitat resulting from project-related activities shall not contaminate the soil or enter the river. Any such materials placed where they may enter the river shall be removed immediately.

2.26 Removal of Construction Waste. Permittee shall remove construction materials and wastes from the project site following the completion of project activities. Food-contaminated wastes generated during construction shall be disposed of in securely closed containers and removed at least once a week to avoid attracting predators to the work sites. All temporary fences, barriers, and/or flagging shall be completely removed from work sites and properly disposed of upon completion of maintenance activities. Permittee or its contractors shall not dump any construction debris or litter within the river.

2.27 Emergency Spill Response Plan. An emergency response plan shall be prepared and submitted to CDFW prior to the start of project work. The plan shall be limited to 3 (three) pages in length and may be presented in prose, table, or bulleted list format. The plan shall identify the actions which would be taken in the event of a spill of concrete, petroleum products, sediment, or other material harmful to fish, wildlife, plant resources, or the habitats thereof. The plan shall also identify the emergency response materials which shall be kept at the site to allow the rapid containment and clean-up of any spilled material. The emergency response plan shall also be submitted in the final construction report.

2.28 Spill Containment and Spill Kits. All activities performed in or near State waters shall have absorbent materials designated for hazardous materials spill containment and cleanup activities on-site for use in an accidental spill. Permittee shall immediately initiate the cleanup activities in the event of a hazardous materials spill. Prior to entering the work site, all field personnel shall know the location of spill kits and trained in their appropriate use.

2.29 Spill of Material Deleterious to Fish, Wildlife and Plants. Permittee and all contractors shall be subject to the water pollution regulations found in FGC Sections 5650 and 12015. In the event of a hazardous materials spill into the stream (e.g., grout, epoxy, etc.), Permittee shall immediately notify the California Office of Emergency Services State Warning Center by calling 1-800-852-7550 and immediately provide written notification to CDFW by emailing CDFW Environmental Scientist Andrea Boertien, at Andrea.Boertien@wildlife.ca.gov.

Permittee shall take all reasonable measures to document the extent of the impacts and affected areas including photographic documentation of affected areas, injured fish and wildlife. If dead fish or wildlife are found in the affected area, Permittee shall collect carcasses and immediately deliver them to CDFW. Permittee shall meet with CDFW within 10 days of the reported spill in order to develop a resolution including: site clean-up, site remediation, and compensatory mitigation for the harm caused to fish, wildlife, and the habitats on which they depend as a result of the spill. Permittee shall be responsible for all spill clean-up, site remediation, and compensatory mitigation costs. Spill of materials to waters of the State that are deleterious to fish and wildlife are in violation of Fish and Game Code Section 5650 et seq., and are subject to civil penalties for each person responsible. CDFW reserves the right to refer the matter to the District Attorney's Office if a resolution cannot be agreed upon and achieved within a specified timeframe, generally six (6) months from the date of the incident.

2.30 Concrete – Designated Monitor. At all times when the Permittee is pouring or working with wet concrete 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.

2.31 Containment of Concrete Leachate. Containment of concrete leachate shall adhere to the following best management practices:

2.31.1 Any and all concrete surfaces that may come in direct contact with the river shall be poured 30 days prior to the authorized work period final date. Permittee shall notify CDFW 14 days prior to the final date of allowed work if work requiring concrete pours is to exceed that final date.

2.31.2 Unsealed structures shall be allowed to cure (dry) for at least 28 days before rain or other water sources are introduced

2.31.3 To shorten the curing period, Permittee may use a non-toxic sealant designed for use in aquatic environments. Prior to use, Permittee shall submit the product safety data sheet, including information about environmental toxicity, to CDFW for review and approval. If a sealant is to be applied, concrete structures shall be allowed to cure for at least seven

(7) days prior to application and for an additional three (3) days following application of the sealant before flows are reintroduced.

- 2.31.4 Concrete washout shall occur in a designated and appropriately prepared area set back at least 100-feet from the river. Washwater and debris from concrete delivery trucks, concrete pumping equipment, and other tools and equipment shall not be allowed to enter the river and should be removed from the site for treatment following work. Concrete washout facilities should be inspected daily and after heavy rains to check for leaks, identify any plastic linings and sidewalls have been damaged by construction activities, and determine whether they have been filled to over 75 percent capacity. When the washout container is filled to over 75 percent of its capacity, the washwater should be vacuumed off or allowed to evaporate to avoid overflows. No dry concrete shall be placed in a location where it could be carried into the river or contaminate soil by wind or runoff.

3. Compensatory Measures

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

- 3.1 Mitigation Consistent with San Joaquin Multi-Species Habitat Conservation and Open Space Plan (SJMSCP). Mitigation for western pond turtle, giant garter snake, and Swainson's hawk is covered through the SJMSCP. Permittee shall compensate for impacts to habitat through payment of the appropriate fees as required by the terms of the SJMSCP. Proof of payment shall be submitted to CDFW prior to initiation of Project-related activities.
- 3.2 Compensatory Mitigation. Permittee shall mitigate for temporary impacts to aquatic habitat and species at a 1:1 ratio. The amount of compensatory mitigation needed shall be provided to CDFW by the Permittee, in acres, for CDFW approval prior to initiating project-related activities. Compensatory mitigation shall consist of delta smelt or salmonid restoration or equivalent credits at a CDFW-approved mitigation or conservation bank. This mitigation requirement was developed based on existing knowledge of species/habitat impacts with consideration of project activities, project timing, and project-specific site conditions. If delta smelt or salmonid smelt restoration or equivalent credits are not available at any CDFW-approved mitigation or conservation bank, the Permittee shall propose an entity that has aquatic shallow water conservation as their primary mission that will dedicate the funds to purchase or restore similar habitat. The entity shall be approved by CDFW prior to payment and proof of payment shall be provided to CDFW prior to initiating any project-related activities. The entity shall determine the funding amount required for protection and preservation of the Permittee

calculated acreage. Any habitat that is protected, preserved, and/or restored via the funding shall be conserved in perpetuity. Alternately, In the event compensatory mitigation cannot be secured prior to initiating project-related activities, Permittee shall provide CDFW with an irrevocable letter of credit or other form of security approved by CDFW for the amount calculated. The security amount shall be calculated based upon the acreage needed for a 1:1 mitigation ratio for temporary impact, and agreed to in writing by CDFW.

4. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 4.1 Notification of Work Commencement/Completion to CDFW. Permittee shall notify CDFW 14 calendar days prior to the initiation of construction, and within 14 calendar days of the completion of construction, of work each season in which project activities occur. Permittee shall submit the notification by e-mail to CDFW Environmental Scientist Andrea Boertien, at Andrea.Boertien@wildlife.ca.gov, referencing Notification Number EPIMS-SJN-26117-R3.
- 4.2 Qualified Biologist(s) and Biological Monitor(s). Permittee shall submit resumes of all potential Qualified Biologists and Biological Monitors to CDFW for approval at least 21 days prior to the initiation of preconstruction surveys. Resumes shall include educational background, experience with focal species and description of experience with each focal species (e.g., tagging, handling, observational surveys, relocation, auditory surveys, etc.), including number of hours/years of experience per species, trainings/workshops, and certificates or related credentials. Include experience with different life stages of a species when applicable. Permittee is encouraged to use the Biologist Resume Form included as Exhibit D. Preconstruction surveys and project implementation shall not commence until the Qualified Biologist and Biological Monitor have been approved by CDFW. Permittee shall upload the results to the EPIMS data portal referencing Notification Number EPIMS-SJN-26117-R3.
- 4.3 Biological Preconstruction Surveys. Prior to the commencement of work, Permittee shall upload the results to the EPIMS data portal referencing Notification Number EPIMS-SJN-26117-R3. Permittee is encouraged to combine survey results for multiple species into a single document.
- 4.4 Special-Status Species Documentation. If any special-status species are observed during project monitoring, the Permittee shall immediately contact CDFW. Permittee shall also submit California Natural Diversity Data Base (CNDDDB) forms to the CNDDDB for all survey data within 15 working days of the sightings and shall upload copies of the CNDDDB forms and survey maps to the EPIMS data portal. See <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>.

- 4.5 Final Construction Report. A final construction report shall be submitted to CDFW within 45 days of completion of all construction activity. This report shall detail: 1) dates construction occurred; 2) pertinent information concerning the success of the project in meeting avoidance and minimization measures; 3) detailed summaries of any deceased wildlife discovered at the site; 4) written proof of lawful disposal of any waste generated by the project at an appropriate landfill or hazardous waste disposal site; 5) photographs of post-construction results; and 6) the as-built designs of the completed work. An explanation of failure to meet such measures as specified in this Agreement shall also be included, if applicable. Permittee shall upload the Project Completion Report to the EPIMS data portal, referencing Notification Number EPIMS-SJN-26117-R3.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be submitted through EPIMS as instructed by CDFW.

To Permittee:

Port of Stockton
Jason Cashman
EPIMS-SJN-26117-R3
Port of Stockton Dock 7/8 Fender Replacement and Structural Repairs Project
2201 West Washington Street
Stockton, CA 95203
jcashman@stocktonport.com

To CDFW:

Department of Fish and Wildlife
Bay Delta Region
EPIMS-SJN-26117-R3
Port of Stockton Dock 7/8 Fender Replacement and Structural Repairs Project
epims.r3@wildlife.ca.gov or Andrea.Boertien@wildlife.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of the 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 the 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 the 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 the Agreement.

Before CDFW suspends or revokes the 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 the 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 the Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the 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, or 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 the 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 the 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 the 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 use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall include with the completed form, payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the 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 the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall include with the completed form, payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with Fish and Game Code section 1605, subdivision (b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall use the "Amendments & Extension" form in EPIMS to submit the request. Permittee shall include with the completed form, payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with Fish and Game Code section 1605, subdivisions (b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code § 1605, subd. (f)).

EFFECTIVE DATE

The 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 Fish and Game Code section 711.4 filing fee listed at <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>.

TERM

This Agreement shall expire on **December 31, 2026**, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as Fish and Game Code section 1605, subdivision (a)(2) requires.

EXHIBITS

The documents listed below are included as exhibits to the Agreement and incorporated herein by reference.

Exhibit A: Site and Vicinity Map. From the *Port of Stockton Dock 7/8 Fender Replacement and Structural Repairs Project Permit Application Supplement* prepared for Port of Stockton by Anchor QEA,LLC; dated December 2021; page 3; submitted by Marine Vie on December 29, 2021.

Exhibit B: Waterproof Formwork Design. From the *Port of Stockton Dock 7/8 Fender Replacement and Structural Repairs Project Permit Application Supplement* prepared for Port of Stockton by Anchor QEA,LLC; dated December 2021; page 12; submitted by Marine Vie on December 29, 2021.

Exhibit C: Fender Replacement Repair Plans. From the *Port of Stockton Dock 7/8 Fender Replacement and Structural Repairs Project Permit Application Supplement, Appendix A* prepared for Port of Stockton by Anchor QEA,LLC; titled *Port of Stockton – East Complex Berth 7 and 8 Improvement Plans*, sheets 6-9, prepared by S.Y. Kim, PE, SE Consulting Structural Engineers; as submitted by Katie Chamberlin on March 11, 2022.

Exhibit D: Biologist Resume Form

AUTHORITY

If the person signing the 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 the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with Fish and Game Code section 1602.

CONCURRENCE

Through the electronic signature by the permittee or permittee's representative as evidenced by the attached concurrence from CDFW's Environmental Permit Information Management System (EPIMS), the permittee accepts and agrees to comply with all provisions contained herein.

The EPIMS concurrence page containing electronic signatures must be attached to this agreement to be valid.