

Notice of Determination

TO: Office of Planning and Research

FROM: California Department of Fish and Wildlife (CDFW)
Northern Region
601 Locust Street
Redding, California 96001
Contact: Virginia O'Rourke
Phone: (707) 964-1597

For U.S. Mail:
P.O. Box 3044
Sacramento, CA 95812-3044

Street Address:
1400 Tenth Street
Sacramento, CA 95814

LEAD AGENCY (if different from above):
California Department of Forestry and Fire Protection
135 Ridgway Avenue
Santa Rosa, California 95401
Contact: Dominik Schwab
Phone: (707) 576-2953

SUBJECT: *Filing of Notice of Determination pursuant to § 21108 of the Public Resources Code*

State Clearinghouse Number (if submitted to State Clearinghouse):

2019049060

Project Title: **Lake or Streambed Alteration Agreement No. 1600-2013-0325-R1 for Timber Harvesting Plans (THP) 1-17-072 MEN, "Kass Green"; 1-17-076 MEN, "Bodacious"; 1-18-048 MEN, "Scout It Out"; 1-18-050 MEN, "Hayshed Gulch"; and 1-18-00116 MEN, "Upper Duffy".**

Project Location: **The project is located on Duffy Gulch, Noyo River, and unnamed tributaries to the Noyo River, Mendocino County; in Sections 1, 2, 4, 9,10, 11, and 12, Township 18N, Range 16W; Section 2, Township 17N, Range 16W; and Sections 8, 10, 12, and 14, Township 18N, Range 17W, Mount Diablo Base and Meridian.**

This is to advise that CDFW, acting as the Lead Agency / a Responsible Agency approved the above-described project and has made the following determinations:

1. The project will / will not have a significant effect on the environment. (This determination is limited to effects within CDFW's jurisdiction when CDFW acts as a responsible agency.)
2. An environmental impact report / A negative declaration / A timber harvesting plan was prepared for this project pursuant to the California Environmental Quality Act (CEQA).
3. Mitigation measures were / were not made a condition of CDFW's approval of the project.
4. A Statement of Overriding Considerations was / was not adopted by CDFW for this project.
5. Findings were / were not made by CDFW pursuant to Public Resources Code § 21081(a). CDFW adopted findings to document its compliance with CEQA.
6. Compliance with the environmental filing fee requirement of Fish and Wildlife Code § 711.4 (check one):
 - Payment is submitted with this notice.
 - A copy of a receipt showing prior payment is on file with CDFW.
 - A copy of the CEQA Filing Fee No Effect Determination Form signed by CDFW is attached to this notice.
- Lead Agency certification: CDFW, as Lead Agency, has made the final Environmental Impact Report (EIR) with comments and responses and record of project approval, or the Negative Declaration, available to the General Public at the CDFW office identified above.
- Responsible Agency statement: The final EIR, Negative Declaration or THP that was prepared by the Lead Agency for this project is available to the General Public at the office location listed above for the Lead Agency. CDFW's CEQA Findings are available at the Eureka CDFW office located at 619 Second Street, Eureka, California, 95501.

Signature: *Jon Hendrix*
Jon Hendrix, Senior Environmental Scientist (Supervisory)
California Department of Fish and Wildlife

Date: APR 04 2019

Date Received for filing at OPR:

Governor's Office of Planning & Research

APR 10 2019

STATE CLEARINGHOUSE

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS FOR
LAKE OR STREAMBED ALTERATION AGREEMENT No. 1600-2013-0325-R1**

Introduction

The California Environmental Quality Act (CEQA) (Public Resources Code Section 21000, *et seq.*) and the State CEQA Guidelines (Guidelines) (Section 15000, *et seq.*, Title 14, California Code of Regulations) require that no public agency shall approve or carry out a project that identifies one or more significant effects, unless the agency makes the following finding as to each significant effect:

Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Timber Harvesting Plans (THPs) and Nonindustrial Timber Management Plans (NTMPs) are documents prepared according to a certified state regulatory program and they substitute for a Negative Declaration or an Environmental Impact Report, pursuant to Guidelines sections 15251 and 15252. As the Lead Agency for THPs and NTMPs, the California Department of Forestry and Fire Protection (CAL FIRE) approved THP 1-17-072 MEN on March 1, 2018; 1-17-076 MEN on December 20, 2017; 1-18-048 MEN on June 29, 2018; 1-18-050 MEN on August 27, 2018; and 1-18-00116 MEN on December 20, 2018. CAL FIRE found that the THPs will not result in significant environmental effects with the mitigation measures required in or incorporated into the THP.

The California Department of Fish and Wildlife (CDFW) is entering into a lake or streambed alteration agreement (Agreement) with Mr. Jonathan Hvozda, representing Lyme Redwood Timber Company. The activities to be completed according to the Agreement are located on Duffy Gulch, Noyo River, and unnamed tributaries to the Noyo River, Mendocino County; in Sections 1, 2, 4, 9, 10, 11, and 12, Township 18N, Range 16W; Section 2, Township 17N, Range 16W; and Sections 8, 10, 12, and 14, Township 18N, Range 17W, Mount Diablo Base and Meridian.

Because CDFW is issuing the Agreement, it is a Responsible Agency under CEQA. As a CEQA Responsible Agency, CDFW is required by Guidelines Section 15096 to review a THP or NTMP approved by the Lead Agency that includes the activities addressed in the Agreement and to make a finding that the Agreement's activities will not cause significant, adverse environmental effects. However, when considering alternatives and mitigation measures approved by the Lead Agency, a Responsible Agency is more limited than the Lead Agency. When issuing the Agreement, CDFW is responsible only for ensuring that the direct or indirect environmental effects of activities addressed in the Agreement are adequately mitigated or avoided. Consequently, the findings adopted or independently made by CDFW with respect to an Agreement's activities are more limited than the findings of the Lead Agency funding, approving, or carrying out the activities addressed in a THP or NTMP.

Findings

CDFW has considered the THPs approved by CAL FIRE that are named above. CDFW has independently concluded that the Agreement should be issued under the terms and conditions specified therein. In this regard, CDFW hereby adopts the findings of CAL FIRE as set forth in the THP or NTMP insofar as they pertain to the impacts on biological resources from the activities addressed in the Agreement.

Signature: _____

Jon Hendrix, Senior Environmental Scientist (Supervisory)
California Department of Fish and Wildlife

Date: _____

APR 04 2019



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region—Timberland Conservation Program
619 Second Street
Eureka, CA 95501
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



Governor's Office of Planning & Research

APR 10 2019
STATE CLEARINGHOUSE

April 2, 2019

Mr. Jonathan Hvozda
Lyme Redwood Forest Company
90 West Redwood Avenue
Fort Bragg, CA 95437

Subject: Extension of Lake or Streambed Alteration Agreement
Notification No. 1600-2013-0325-R1
Tributaries to Duffy Gulch and Noyo River, Noyo River Watershed, in
Mendocino County

**5 Class I Watercourse, Water Drafting Encroachments and 5 Class II Watercourse,
Water Drafting Encroachments**

Dear Mr. Hvozda:

The California Department of Fish and Wildlife (Department) received your request to extend the above referenced Lake or Streambed Alteration Agreement (Agreement). You requested to extend the term of your Agreement from February 14, 2019 to February 14, 2024.

The request for extension includes one Class I direct instream drafting site, two Class I reservoirs with direct water drafting, one Class I water drafting pond, three Class II water drafting ponds, and two Class II water drafting storage tanks. The following Timber Harvesting Plans within the Noyo River watershed necessitate water drafting for dust abatement and road maintenance and have proposed use of one or more of the drafting sites permitted by Agreement No. 1600-2013-0325-R1: 1-17-072 MEN, "Kass Green"; 1-17-076 MEN, "Bodacious"; 1-18-048 MEN, "Scout It Out"; 1-18-050 MEN, "Hayshed Gulch"; and 1-18-00116 MEN, "Upper Duffy".

The Department has determined that an extension will require modifications to the Agreement because the measures contained in the Agreement no longer protect the fish and wildlife resources that the activity may substantially adversely affect. The Department hereby agrees to extend the term of the Agreement to **February 14, 2020** with the addition of the following measures to protect fish and wildlife resources:

1. Conditions for Water Drafting

Before any work covered by this Agreement is undertaken, this Agreement shall be amended into and made enforceable as part of Timber Harvesting Plans 1-17-072 MEN, 1-17-076 MEN, 1-18-048 MEN, 1-18-050 MEN, and 1-18-00116 MEN.

2. Foothill Yellow-Legged Frog (*Rana boylei*) Surveys, while under the protection of the California Endangered Species Act, Fish and Game Code Section 2050 et seq.:
 - a. Prior to water drafting activities from any Class I or Class II water drafting site, a qualified biologist or person knowledgeable with all life stages of *Rana boylei* and similar species shall conduct a visual encounter survey for all life-stages of *Rana boylei*.
 - b. Visual encounter surveys shall consist of walking the entire survey reach, minimum 100 feet above and 100 feet below the project area footprint and within the streambed at bankfull, visually scanning in the water and on the banks.
 - c. All frog species and life stages encountered shall be recorded. Permittee shall use a datasheet that includes a brief description of observations, stream name, habitat, overstory, and weather conditions, date(s), latitude and longitude locations, and a list of all species observed. This information shall be provided to the Department by email (CTP@wildlife.ca.gov) prior to the start of water drafting activities.

3. Foothill Yellow-Legged Frog (*Rana boylei*) Protection Measures, while under the protection of the California Endangered Species Act, Fish and Game Code Section 2050 et seq.:
 - a. If Foothill Yellow-Legged Frogs are encountered during water drafting activities at any site, work in the immediate vicinity of the sighting shall cease until the species has cleared the work area. Frogs shall be allowed to leave the area unharmed and on their own volition.
 - b. If Foothill Yellow-Legged Frogs cannot be avoided during water drafting activities, work shall be suspended, the Department notified, and measures shall be developed in agreement with the Department prior to recommencing activities.
 - c. The presence of Foothill Yellow-Legged Frogs may require a California Endangered Species Act Incidental Take Permit (ITP) before project activities may commence.
 - d. Capturing, handling, moving, and/or relocating *Rana boylei* adults, juveniles, tadpoles, or egg masses is not permitted under this Agreement.

Jonathan Hvozda
Lyme Redwood Forest Company
Extension and Amended Conditions for 1600-2013-0325-R1
April 2, 2019
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- e. The Department reserves the right to provide additional provisions to this Agreement in the event Foothill Yellow-Legged Frogs are observed.

All terms and conditions in the Agreement remain in effect unless otherwise noted herein. Based on monitoring information and seasonal flow patterns, the Department will assess whether additional protection measures and monitoring requirements are warranted, and if the Agreement can be extended beyond February 14, 2020.

Please print two copies of this letter, sign and date both copies, and return one copy of this letter with an original signature to the address below to acknowledge the extension and additional measures to protect fish and wildlife resources. Copies of the Agreement and this extension must be readily available at project work sites and must be presented when requested by a Department representative or agency with inspection authority.

If you have any questions regarding this matter, please contact Virginia O'Rourke, Senior Environmental Scientist, by phone (707) 964-1597 or email Virginia.O'Rourke@wildlife.ca.gov.

Sincerely,



Jon Hendrix
Senior Environmental Scientist (Supervisory)

Send signed extension to the following:

California Department of Fish and Wildlife
Attn: Christine Hahn Vertical
619 Second Street
Eureka, CA 95501

cc: Lyme Redwood Forest Company
Jonathan Hvozda and Zachary Jones
jhvozda@lymeredwood.com, zjones@lymeredwood.com

Jonathan Hvozda
Lyme Redwood Forest Company
Extension and Amended Conditions for 1600-2013-0325-R1
April 2, 2019
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California Department of Fish and Wildlife
Jon Hendrix, Virginia O'Rourke, Christine Hahn Vertical, Adam Hutchins, and
Danielle Castle
jon.hendrix@wildlife.ca.gov, virginia.o'rourke@wildlife.ca.gov,
christine.hahnvertical@wildlife.ca.gov, adam.hutchins@wildlife.ca.gov,
danielle.castle@wildlife.ca.gov

ACKNOWLEDGEMENT

I hereby agree to the above-referenced amendment.

Print Name: Jonathan Hvozda Date: 4-3-2019.
Signature: 