

Notice of Determination

TO: ☒ Office of Planning and Research **FROM:** Department of Fish and Wildlife
Northern Region
1625 South Main Street
Yreka, CA 96097
Contact: Merissa Hanisko
Phone: (530) 841-2568

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 Forestry and Fire Protection
6105 Airport Road
Redding, CA 96003
Contact: Jonathan Woessner
Phone: (530) 244-2438

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


Project Title: Streambed Alteration Agreement No. 1600-2022-0028-R1 "Pantera" Timber Harvesting Plan (THP) 2-22-00045-SIS.

Project Location: The project is located on Little Shasta River, tributary to Shasta River in the Upper Little Shasta River (1105.500901) planning watershed; Township 45N, Range 03W, section 9; Mount Diablo Base and Meridian; USGS 7.5-minute quadrangle Panther Rock.

Project Description: The project is limited to one encroachment including water drafting from one existing in stream drafting site (W1) on Little Shasta River, a Class I watercourse as described on pages 69, 69.1, 70, and 71 of the Timber Harvesting Plan (THP).

This is to advise that the Department of Fish and Wildlife (CDFW), acting as ☐ the lead agency / ☒ a **responsible agency** approved the above-described project on the date signed below and has made the following determinations regarding the above described project:

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 CEQA.
3. Mitigation measures ☒ **were** / ☐ **were not** made a condition of DFW's approval of the project.
4. A Statement of Overriding Considerations ☐ **was** / ☒ **was not** adopted by DFW for this project.
5. Findings ☐ **were** / ☒ **were not** made by CDFW pursuant to Public Resources Code § 21081(a).
The Department did, however, adopt findings to document its compliance with CEQA.
6. Compliance with the environmental filing fee requirement at Fish and Game 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 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 CDFW office identified above.

Signed: 
Richard Klug
Senior Environmental Scientist (Supervisor)
Date Received for filing at OPR:

Date: 08/31/2022

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS FOR
STREAMBED ALTERATION AGREEMENT No. 1600-2022-0028-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 for which a Timber Harvesting Plan (THP) has been completed 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.

The THP/NTMP is a certified state regulatory program that provides a substitute document to a Negative Declaration or Environmental Impact Report, pursuant to Guidelines Sections 15251 and 15252. As the lead agency for the THP, the California Department of Forestry and Fire Protection (CALFIRE) certified the THP for the Project on August 15, 2022. The Department of Fish and Wildlife (CDFW) found that the Project will not result in significant environmental effects with the mitigation measures required in or incorporated into the Project.

CDFW is entering into Streambed Alteration Agreement (Agreement) **No. 1600-2022-0028-R1** with **Mr. and Mrs. Burke**. The project is located on Little Shasta River, tributary to Shasta River in the Upper Little Shasta River (1105.500901) planning watershed; Township 45N, Range 03W, section 9; Mount Diablo Base and Meridian; USGS 7.5-minute quadrangle Panther Rock.

Because CDFW is issuing the Agreement, it is a Responsible Agency under CEQA for the Project. As a CEQA Responsible Agency, CDFW is required by Guidelines Section 15096 to review the environmental document certified by the Lead Agency approving the projects or activities addressed in the Agreement and to make certain findings concerning a project's potential to 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 project activities addressed in such Agreements.

Findings

CDFW has considered the THP adopted by CALFIRE. 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 CALFIRE, as set forth in the THP insofar as they pertain to the Project's impacts on biological resources.

Signed: _____

Richard Klug
Senior Environmental Scientist (Supervisor)
Northern Region

Date: 09/06/2022

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
NORTHERN REGION
601 LOCUST STREET
REDDING, CA, 96001



STREAMBED ALTERATION AGREEMENT
NOTIFICATION NO. 1600-2022-0028-R1
Little Shasta River
1 Encroachment

MR. AND MRS. JON AND JENNIFER BURKE
2-22-00045-SIS, "PANTERA THP"

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and Jon and Jennifer Burke (Permittee).

RECITALS

WHEREAS, pursuant to Fish and Game Code section 1602, Permittee notified CDFW on March 28, 2022, 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 on Little Shasta River, tributary to Shasta River in the Upper Little Shasta River (1105.500901) planning watershed; Township 45N, Range 03W, section 9; Mount Diablo Base and Meridian; USGS 7.5-minute quadrangle Panther Rock. The location of the water drafting site is shown in Exhibit 1.

PROJECT DESCRIPTION

The project is limited to one encroachment including water drafting from one existing in stream drafting site (W1) on Little Shasta River, a Class I watercourse as described on pages 69, 69.1, 70, and 71 of the Timber Harvesting Plan (THP).

PROJECT IMPACTS

CDFW has determined that without implementation of the conditions contained within this Agreement, existing fish or wildlife resources the project could substantially adversely affect include but are not limited to: fish, amphibians, reptiles, aquatic invertebrates, mammals, birds, and other species dependent on aquatic and riparian habitats.

The project could adversely affect the fish or wildlife resources identified above through short-term release of contaminants incidental from work activities (e.g., sediment, petroleum products, etc.), channel dewatering, and loss or decline of stream channel and riparian habitats. These effects may cause conditions that decrease instream quality, damage spawning and/or rearing habitats, impede the up and/or downstream migration of aquatic species, and reduce the quality or quantity of aquatic and riparian breeding and foraging habitats.

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 upon 24-hour notification to verify compliance with the Agreement.
- 1.5 Notification of Commencement and Completion of Work. At least two business days prior to the initiation of work at the sites listed in the Project Description, the Permittee shall contact CDFW representative Merissa Hanisko by email

(merissa.hanisko@wildlife.ca.gov) to inform CDFW work is expected to commence. Information to be disclosed includes Agreement number and the anticipated start date. CDFW has two full business days from time of Permittee contact to respond. If the Permittee does not receive a response from CDFW at two business days, as initiated by Permittee's time of contact, the Permittee may initiate the work permitted by this Agreement. The Permittee shall contact CDFW within thirty days of completion of the work.

- 1.6 Project Accordance Except where otherwise stipulated in this Agreement, all work shall be in accordance with the project description provided here-in as Agreement No.1600-2022-0028-R1 and any descriptions of work provided in THP 2-22-00045-SIS "Pantera" as approved on August 15, 2022.

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.

PROJECT TIMING

- 2.1 Timing for Water Drafting on Class I Watercourses. All water drafting shall occur between **June 15 through October 15** for Class I watercourses. To request exceptions to project timing for water drafting the Permittee shall contact CDFW and obtain written approval (e.g., email) from CDFW prior to the commencement of water drafting activities.
- 2.2 Removal of Obstructions. If a substantial threat to the drafting facility exists, removal of obstructions and sediment shall be limited to the time periods specified in measure 2.1. If the obstructions and sediment would reasonably be expected to cause substantial damage to resources or cause the facility to fail, the Permittee may remove obstructions and sediment at any time.

GENERAL CONDITIONS for ALL ENCROACHMENTS

- 2.3 Vehicles shall not be driven, or equipment operated, in water covered portions of a stream except as specifically provided for in this Agreement.
- 2.4 Stationary equipment, such as motors, pumps, and generators, that contain deleterious materials, located within or adjacent to a stream shall be positioned over drip pans.
- 2.5 Refueling of equipment and vehicles and storing, adding or draining lubricants, coolants or hydraulic fluids shall not take place within WLPZs or within stream beds, banks or channels. All such fluids and containers shall be disposed of properly. Heavy equipment including water drafting trucks parked within WLPZs or streambeds, banks or channels shall use drip pans or other devices (i.e.,

absorbent blankets, sheet barriers or other materials) as needed to prevent soil and water contamination.

- 2.6 All activities performed in or near a stream shall have absorbent materials designated for spill containment and clean-up activities on-site for use in an accidental spill. In the event of a spill, the Permittee shall immediately notify the California Emergency Management Agency at 1-800-852-7550 and immediately initiate the clean-up activities. CDFW shall be notified by the Permittee and consulted regarding clean-up procedures.
- 2.7 No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, asphalt, paint or other coating material, oil or petroleum products or other organic or earthen material from any logging, construction, or associated activity of whatever nature shall be allowed to enter into, or placed where it may be washed by rainfall or runoff into Waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. Any fill material used shall be placed and/or removed in such a manner that it shall not cause direct sediment discharge or siltation in the stream.
- 2.8 Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations.
- 2.9 Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the ordinary high water mark before such flows occur or the end of the yearly work period, whichever comes first.
- 2.10 Upon Department determination that turbidity/siltation levels resulting from project related activities constitute a threat to aquatic life, activities associated with the turbidity/siltation, shall be halted until effective Department approved control devices are installed, or abatement procedures are initiated.

CONDITIONS for WATER DRAFTING OPERATIONS

- 2.11 The Permittee shall ensure that water drafting associated with this Agreement complies with any applicable Water Rights and limitations of any associated adjudicated system, including but not limited to compliance with any applicable Division of Water Rights curtailment.
- 2.12 The Permittee shall ensure that bypass flows are maintained at all times during water drafting activities and upstream or downstream passage of fish and all aquatic species is assured at all times
- 2.13 Drafted water shall only be used for the purposes of dust abatement or road maintenance.

- 2.14 The drafting operator shall keep a log that records, for each time water is drafted: the drafting location, date, total pumping time, pump rate, starting time, ending time, and volume diverted.
- 2.15 Drafting by more than one truck shall not occur simultaneously at the same site.
- 2.16 All water drafting vehicles should be checked daily and shall be repaired as necessary to prevent leaks of deleterious materials from entering the stream and WLPZ.
- 2.17 Where overflow run-off from water trucks or storage tanks may enter the stream, effective erosion control devices shall be installed such as water bars, gravel berms, or hay bales.
- 2.18 Road approaches and truck pads shall be treated as necessary to prevent sediment production and delivery to a stream or waterhole. Approaches shall be armored to a minimum depth of 4 inches with durable compacted gravel, rock, or comparable material, from the edge of the watercourse out to 50 feet, or to the nearest water bar or point of hydrologic divide. The approaches shall be hydrologically disconnected to the maximum extent feasible and shall be maintained as necessary during use. Brow logs or large rocks shall be placed at the end of the truck pad where needed to prevent overland flow into the water source, and to limit truck access.
- 2.19 During water diversion pump intakes shall be fitted with screen made of woven mesh, perforated plate, wedge wire, or other durable fabric. The screen medium shall be able to withstand forces related to pumping and be of sufficient size to prevent impingement or entrainment of aquatic vertebrates during drafting operations.
- 2.20 Openings in the screens of Class I watercourse drafting intakes shall not exceed 1/16 inch in width for slotted or square openings or 3/32 inches diameter for round openings.
- 2.21 The screen surface shall have at least 2.5 square feet of openings submerged in water.
- 2.22 The velocity of water across the screen surface shall not exceed 0.3 feet per second at any point on the screen surface.
- 2.23 The diversion rate shall not exceed 200 gallons per minute.
- 2.24 Pump intakes shall rest above the bottom of the channel and away from submerged vegetation. Screens and intakes shall be kept in good repair, and kept clean and free of accumulated algae, leaves, or other debris or obstructions. Screens and intakes shall be inspected during site visits to monitor drafting rates.

- 2.1 When diverting water from any Class I stream, bypass flows of at least 2 cubic feet per second shall be maintained and diversion rates from the source stream shall not exceed 10 percent of the unimpeded surface flow.
- 2.2 At the end of drafting operations, and prior to October 15 of each drafting season, the drafting intakes shall be removed from the active channel of the watercourse.

CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

To Permittee:

Jon and Jennifer Burke
P.O. Box 863
Montague, CA 96064
530-459-3833
jon4js@gmail.com

To CDFW:

Department of Fish and Wildlife
Northern Region
601 Locust Street
Redding, California 96001
Attn: Lake and Streambed Alteration Program – Richard Klug
Notification #1600-2022-0028-R1
richard.klug@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 submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and 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). Submit the form and fee to the CDFW regional office that serves the area where the project is located.

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 submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and 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). Submit the form and fee to the CDFW regional office that serves the area where the project is located.

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 submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and 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)). Submit the form and fee to the CDFW regional office that serves the area where the project is located.

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 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 5 years from the CDFW signature date below, 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

A figure of the water drafting site location is included as Exhibit 1 to the Agreement and is incorporated herein by reference.

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.

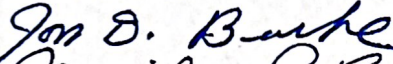
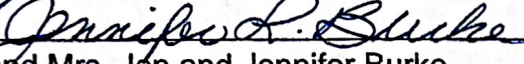
AUTHORIZATION

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.

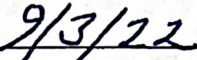
CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

FOR PERMITTEE

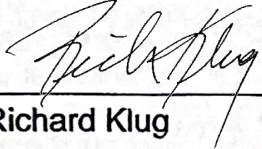



Mr. and Mrs. Jon and Jennifer Burke



Date

FOR DEPARTMENT OF FISH AND WILDLIFE



Mr. Richard Klug
Senior Environmental Scientist (Supervisor)

09/06/2022

Date

Prepared by: Merissa Hanisko

Environmental Scientist

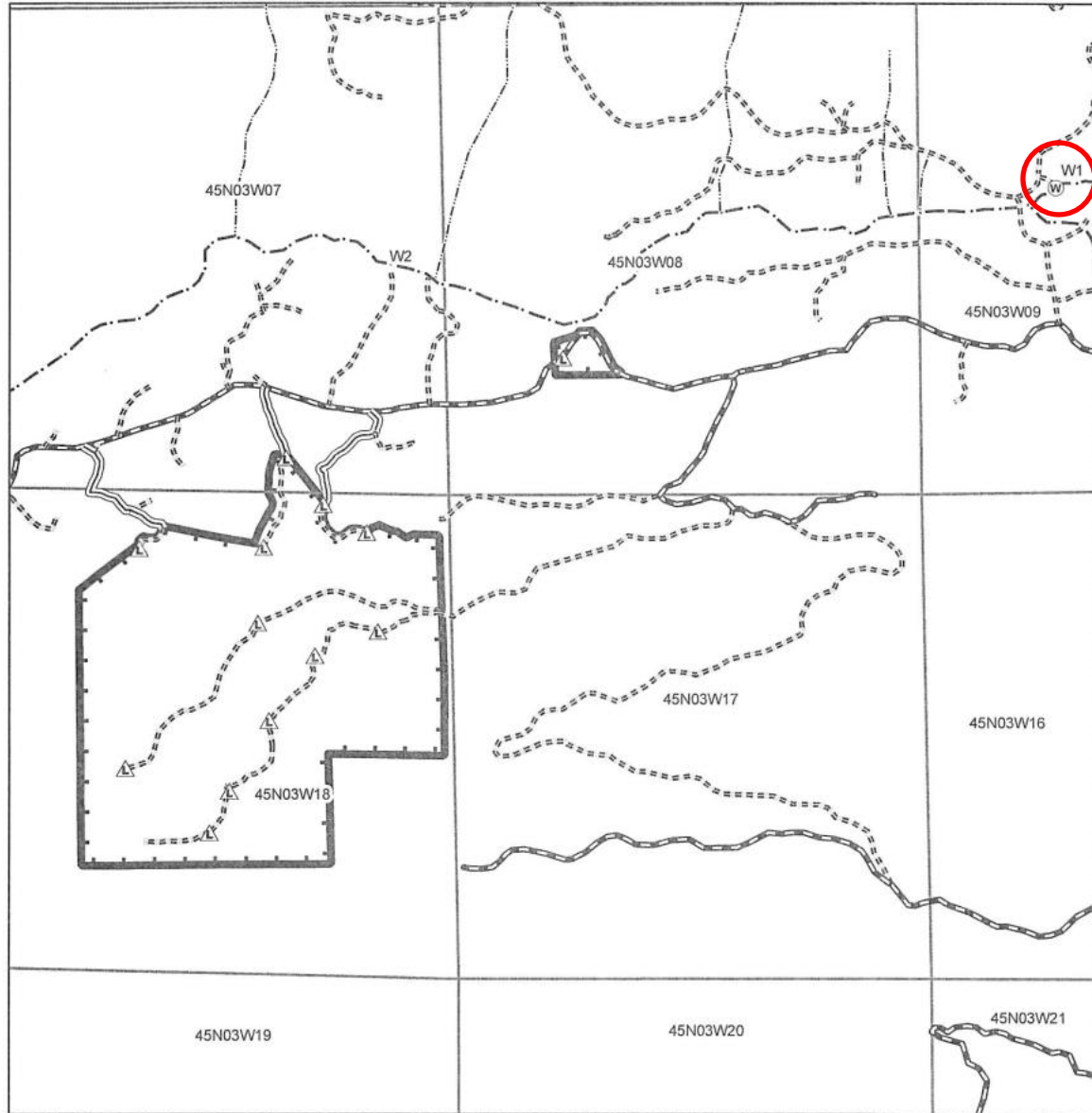
July 6, 2022, August 29, 2022-revised to include THP approval date

EXHIBIT 1: Figure of water drafting site location adapted from THP 2-22-00045-SIS, page 74.

USGS 7.5 min Quads: Panther Rock, CA
Contour Interval: 40 ft
Developed by: JRC GIS Dept.

PANTERA THP
Appurtenant Roads and Drafting Site Map

Date: 3/16/2022



THP Boundary

Roads

- Appurtenant
- Public Seasonal
- Private Seasonal

Watercourse Classification

- Class I
- Class II

Drafting Site

- W1



All Low EHR, All Ground Based Yarding

74

1:18,000
1 inch = 1,500 feet