

AMENDMENT THREE TO AGREEMENT BETWEEN  
THE DEPARTMENT OF WATER RESOURCES AND  
THE DEPARTMENT OF FISH AND GAME  
TO OFFSET DIRECT LOSSES IN RELATION TO  
THE HARVEY O. BANKS DELTA PUMPING PLANT

This Amendment Three is made by and between the Department of Water Resources (DWR) and the Department of Fish and Game (DFG) to amend their 1986 agreement (Agreement) to offset direct losses of fish caused by the diversion of water by the Harvey O. Banks Delta Pumping Plant.

Recitals:

1. On December 30, 1986, DWR and DFG entered into an agreement to offset direct losses of fish caused by the diversion of water by the Harvey O. Banks Delta Pumping Plant (Delta Pumping Plant) since 1986.
2. In Paragraph I.B. of the 1986 Agreement, the parties recognized that direct losses of fish for any given year would probably have been greater had there not been direct losses caused by the Delta Pumping Plant in previous years. DWR agreed to provide \$15 million for fishery improvement projects to offset these potentially higher losses. Paragraph D.4. required the \$15 million to be expended by December 29, 1996. However, DWR and DFG spent only about \$6 million by that time. About \$9 million was not spent.
3. On December 13, 1996, DWR and DFG entered into Amendment One to the 1986 Agreement to offset direct losses of fish at the Delta Pumping Plant. In Paragraph 1. of Amendment One, the parties agreed to extend the period to expend the remainder of the \$15 million provided for fishery improvement projects to December 29, 2001. DWR and DFG had spent only about \$10 million by that time. About \$5 million was not spent.
4. On January 31, 2002, DWR and DFG entered into Amendment Two to the 1986 Agreement. In Paragraph 1. of Amendment Two, the parties again agreed to extend the period to expend the remainder of the \$15 million provided for fishery improvement projects to December 31, 2004. DWR and DFG will have spent only about \$11.4 million by that time. About \$3.6 million will not have been spent.
5. At the March 4, 2004, Delta Pumping Plant Fish Advisory Committee Meeting, committee members approved another three-year time extension through December 31, 2007, for expenditure of the remaining funds, and requested that Amendment Three be submitted to the Directors of DWR and DFG for signature.

AGREEMENT

The Department of Water Resources and the Department of Fish and Game agree to the following:

1. The period to expend the remainder of the \$15 million provided for fishery improvement projects is extended to December 31, 2007. The funds will be allocated as specified in Attachment 1 of this amendment, unless otherwise recommended by the Delta Pumping Plant Agreement Fish Advisory Committee and agreed to by the Department of Water Resources and the Department of Fish and Game.
2. This Amendment Three shall become effective upon signatures below and approval by the Department of General Services.

\_\_\_\_\_  
Lester A. Snow, Director  
Department of Water Resources

Date \_\_\_\_\_

\_\_\_\_\_  
Ryan Broddrick, Director  
Department of Fish and Game

Date \_\_\_\_\_

Attachments:

1. Remaining allocation of \$15 million account

**DELTA PUMPING PLANT FISH PROTECTION AGREEMENT  
\$15 MILLION LUMP SUM ACCOUNT**

**Remaining Funds**

<u>PROJECTS</u>	<u>AMOUNT</u> <sup>1</sup>	<u>COMPLETION DATE</u>
<b>REMAINING ALLOCATIONS UNDER AMENDMENT ONE:</b>		
Deer Creek Water Exchange Project	\$ 46,000	Dec 2007
San Joaquin Salmon Predator Isolation Projects	<u>\$ 313,000</u>	Dec 2007
	<b>Subtotal \$ 359,000</b>	
<b>REMAINING ALLOCATIONS UNDER AMENDMENT TWO:</b>		
Revised Deer Creek Water Exchange Project	\$ 950,000	Dec 2007
San Joaquin River Tributary Diversion Fish Screening	\$ 241,000	Dec 2007
Stanislaus River Spawning Habitat and Floodplain Restoration: Lover's Leap Reach	\$ 542,000	Dec 2007
Tuolumne River Channel Restoration Project, River Mile 43	\$ 279,000	Dec 2007
Tuolumne River, La Grange Gravel Addition, Phase II	\$ 276,000	Sep 2005
Merced River Salmon Habitat Enhancement, Expanded Western Stone Sites	\$ 922,000	Dec 2007
Merced River Wing Deflector Gravel Replenishment	<u>\$ 41,000</u>	Sep 2005
	<b>Subtotal \$ 3,251,000</b>	
<b>TOTAL</b>	<b>\$3,610,000</b>	

<sup>1</sup> Funding approved, but unexpended, including encumbrances through June 30, 2004.