

COTTONWOOD CREEK WATERSHED PROGRAMMATIC SAFE HARBOR AGREEMENT

1. INTRODUCTION

This programmatic Safe Harbor Agreement (Agreement) is entered into between Cottonwood Creek Watershed Group (Program Administrator) and the U.S. Department of Interior, Fish and Wildlife Service (Service); hereinafter collectively called the (Parties). The purposes of this Agreement are (1) to promote ecosystem restoration, including restoration, enhancement, and management of habitat for the California red-legged frog (*Rana aurora draytonii*) in the Cottonwood Creek Watershed in Shasta and Tehama Counties, California and (2) to provide certain regulatory assurances to landowners participating in such restoration, enhancement, and management activities. This Agreement follows the Service's Safe Harbor Agreement policy (64 FR 32717) and regulations (64 FR 32706, 69 FR 24084), which implement this policy.

Upon approval, this Agreement will serve as the basis for the Service to issue an enhancement of survival permit (Permit) under Section 10(a)(1)(A) of the Endangered Species Act (Act). The Permit authorizes the incidental taking of the California red-legged frog (CRLF) associated with restoration, maintenance, other routine activities, and the potential future return of any property subject to the Agreement to pre-Agreement conditions (baseline) after the term of this Agreement expires. Under this Agreement, the Program Administrator will issue Certificates of Inclusion to property owners (Cooperators) whose property (Enrolled Property) is subject to a Cooperative Agreement (Exhibit 1). Cooperative Agreements shall be effective upon the signing by the Cooperators and the Program Administrator. Certificates of Inclusion issued by the Program Administrator will extend incidental take coverage conferred by the Permit to the Enrolled Property. Cooperators agree to carry out habitat improvements described in their Cooperative Agreements and to abide by the terms and conditions set forth in this Agreement, the Cooperative Agreement, and the Permit.

2. LIST OF COVERED SPECIES

This Agreement covers the federally threatened California red-legged frog, which is hereafter referred to as the Covered Species.

3. DESCRIPTION OF COVERED AREA

The primary goal of this Agreement is to enhance populations of CRLF by increasing the quantity and quality of aquatic and riparian habitat in the Cottonwood Creek Watershed in Shasta and Tehama Counties, California. The properties subject to this Agreement consist of those non-Federal lands in the Cottonwood Creek Watershed in Shasta and Tehama Counties, California, that are hereafter made subject to Cooperative Agreements between Cooperators and the Program Administrator in the form attached as Exhibit 1. The area within which properties may be enrolled is depicted on the attached map and

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consists generally of those lands lying within the Cottonwood Creek Watershed. The total amount of acreage for potential lands eligible to enroll in the Agreement is not expected to exceed 500,000 acres.

The Cottonwood Creek Watershed is a 603,854 acre watershed located in northern California and is the largest undammed tributary in the northern Central Valley (CH2MHill 2002). It lies within Shasta and Tehama counties and is a westside tributary to the upper Sacramento River. Cottonwood, the major community in the watershed, lies along Interstate 5, halfway between the cities of Red Bluff and Redding.

The properties subject to this Agreement consist of those properties within the boundaries of the Cottonwood Creek Watershed, delineated on the attached map, that are hereafter made subject to Cooperative Agreements between Cooperators and the Program Administrator.

4. BASELINE DETERMINATION

This Agreement provides a means by which landowners can restore and manage habitats for endangered species without incurring additional regulatory restrictions on the use of their property. This Agreement does not release landowners from the responsibility to avoid “take” of any endangered species that already occupies portions of their property. Therefore, any landowner who wishes to enroll his or her property under this Agreement must allow a survey to be conducted prior to finalizing the Cooperative Agreement to determine the extent to which Covered Species already inhabit the property.

Pre-Agreement conditions (Baseline) on the Enrolled Property, as described in the Cooperative Agreement, shall be based upon a survey to determine the presence or absence of CRLF and possibly a vegetative survey of wetland and riparian areas (photos optional). The amount and condition of habitat determined by the survey shall be considered the baseline applicable to the property for the purposes of this Agreement.

5. MANAGEMENT ACTIVITIES

The primary goal of this Agreement is to enhance populations of CRLF by increasing the quantity and quality of aquatic and riparian habitat in the Cottonwood Creek Watershed in Shasta and Tehama Counties, California. Each Enrolled Property will present a unique set of site-specific considerations and challenges. Each Cooperative Agreement shall specify the riparian and/or wetland restoration, enhancement, and management activities to be carried out on the Enrolled Property to which it applies and a timetable for implementing those activities. These activities shall include those listed as “significant activities” in Exhibit 2 and such “other activities” listed in Exhibit 3 as the Cooperator agrees to implement.

6. NET CONSERVATION BENEFITS

Historically, the CRLF was found in several counties in this region. In the 1960s, CRLF were found in Glenn County east of Elk Creek and in many drainages in Colusa County. In 1986 and 1987, CRLF were reported in Sunflower Gulch and Cottonwood Creek, west of Red Bluff (Tehama County). However, subsequent surveys have documented only bullfrogs (*Rana catesbeiana*). The Cottonwood Creek Core Area, as identified in the Recovery Plan, lies within the Cottonwood Creek and Red Bank Creek watersheds, with the majority of it being within the Cottonwood Creek watershed. This Core Area is one of the areas identified within the North Coast Range Foothills and Western Sacramento River Valley Recovery Unit.

The Service has determined that implementation of this Agreement is reasonably expected to provide a “net conservation benefit” to the covered species, because the collective management activities performed by the Cooperators pursuant to this Agreement are expected to provide an increase in the covered species’ population and/or enhance, restore, or maintain the covered species’ habitat.

Specifically, the Agreement supports recovery objective Numbers 4 and 5 listed in the Recovery Plan for the California red-legged frog (USFWS 2002) by restoring habitat and reestablishing the species within the historical range of the animal, managing this habitat by removing exotic species as necessary, and protecting these restored sites for a minimum of 10 years. The management activities in the Agreement have been developed to support endangered species recovery actions provided for in the recovery plan for the CRLF (USFWS 2002) by protecting suitable habitat and by implementing management plans for habitat. The enrolled properties are located within core area number eight, Cottonwood Creek, as described in the Recovery Plan for CRLF. The Cottonwood Creek core area was established either because it represents a viable population or because it will contribute to the connectivity of habitat that will aid in the dispersal of the animal between populations and has potential for reestablishment or augmentation (USFWS 2002). By undertaking the management activities in accordance with the terms of the Agreement, habitat will be available for dispersal opportunities for the CRLF.

These conservation measures are expected to result in the following net conservation benefits to the covered species:

- Increased availability of suitable breeding, foraging and dispersal habitat through controlling predators, installing native vegetation, controlling sedimentation, managing new and existing ponds, or managing agriculture.
- Stabilized stream banks to protect and/or enhance riparian areas and improve water quality;
- Reduced fragmentation, by providing increased riparian habitat, as well as a network of suitable aquatic habitat sites within reasonable travel distance of each other and increased habitat connectivity in the watershed; and
- Likelihood of increasing population by enhancing and creating habitat of the covered species in the watershed.

7. OTHER RESPONSIBILITIES OF THE PARTIES

A. In addition to entering into Cooperative Agreements with willing non-federal landowners, as described above, the Program Administrator agrees to:

1. Changes in Land Use. Inform the Service promptly of any notification it receives from Cooperators of the latter's intent to make a change in land use likely to permanently reduce the amount of habitat for CRLF; and

2. Monitoring. This Agreement provides for two types of monitoring: 1) compliance monitoring (to ensure that all commitments in the Agreement are being met); and 2) biological monitoring (to ensure that the biological goals of the Agreement are being met and to determine the effectiveness of its conservation program).

2.1 Compliance Monitoring. The Program Administrator will provide the Service with an annual report (Exhibit 3) due each April 15 for duration of the permit. The report will include Cooperators self evaluations identifying and describing management activities undertaken to restore, enhance, or manage CRLF habitat on Enrolled Properties in the preceding year and verification of baseline maintenance. Such report will also include information detailing how the restoration area has changed in the last year, if any CRLF were seen or heard and if any bullfrog control measures were undertaken in the preceding year.

2.2 Biological Monitoring At minimum of every 3 years and at maximum of every 5 years, the Program Administrator will conduct surveys in a manner approved by the Service on Enrolled Properties to assess the condition of the habitat being managed thereon and the status of populations of CRLF. Such surveying activities may be carried out on the Program Administrator's behalf by another qualified entity pursuant to an agreement with the Program Administrator and Cooperators.

3. Notify of Change in Ownership. Notify the Service of any transfer of ownership of an Enrolled Property, so that the Service can attempt to contact the new owner, explain the responsibilities applicable to the Enrolled Property, and seek to interest the new owner in signing the existing Agreement or a new one to benefit listed species on the enrolled property; and

4. Notify Service after Issuing a Certificate of Inclusion. Furnish the Service with copies of all Cooperative Agreements within 2 weeks after they are signed.

B. In consideration of the foregoing, the Service agrees to:

1. Enhancement of Survival Permit. Issue to the Program Administrator an enhancement of survival permit ("Permit") in accordance with Section 10(a)(1)(A) of the Federal Endangered Species Act, authorizing take of the Covered Species as a result of restoration, maintenance, routine activities, and the potential future return of any enrolled

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land to Baseline Conditions, provided that such taking shall be consistent with maintaining Baseline Conditions on the enrolled property and Part 10 of this Agreement; and

2. Technical Assistance. Provide to the Program Administrator and Cooperators technical assistance, to the maximum extent practicable, when requested; and provide information on Federal funding programs.

8. OTHER LANDOWNERS WHO MAY SECURE INCIDENTAL TAKE AUTHORIZATION

Landowners who own land that abuts an enrolled property and is immediately adjacent to enrolled land may, without committing to undertake any management activities described in Section 5 of this Agreement on such adjoining land, secure the incidental take authority conferred by the permit issued by the Service to the Program Administrator pursuant to paragraph 7.B.1, provided: (1) such adjoining landowner enters into a written agreement with the Program Administrator; (2) such written agreement specifies the Baseline Conditions on such adjoining property; (3) the Service, or an entity approved by the Service, may access the property for monitoring purposes; and (4) An annual report will be provided by the neighbor to the Program Administrator. Such a report in a simple format to be developed by the Program Administrator, shall describe any changes in the baseline habitat and where or when the covered species has been seen or heard on the property.

9. AGREEMENT AND PERMIT DURATION

The Agreement becomes effective upon issuance by the Service of the Section 10(a)(1)(A) enhancement of survival permit described in Part 7.B.1 of this Agreement, and will be in effect for 30 years from the date of issue. Cooperative Agreements developed pursuant to this Agreement will be for a term of at least 10 years. When the Service determines the conservation actions identified in the Cooperative Agreements have been implemented, the Program Participants need not perform additional conservation activities. In such a case the enhancement of survival permit may continue to be in effect following termination of the Agreement for an additional 2 years. The enhancement of survival permit authorizing incidental take of the CRLF will have a term of 32 years from its effective date. The section 10(a)(1)(A) enhancement of survival permit term allows for two years to return the enrolled property to its baseline condition after the term of the Agreement expires. The Agreement and the Permit described in Part 7 of this Agreement may each be extended for a further period by mutual written consent of the Parties.

10. ASSURANCES REGARDING TAKE OF COVERED SPECIES

Provided that such take is consistent with maintaining Baseline Conditions for the covered species on an Enrolled Property, the Section 10(a)(1)(A) enhancement of

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survival permit referenced in Part 7.B.1 shall authorize Cooperators to take the Covered Species incidental to otherwise lawful activities in the following circumstances:

- A. Implementing the management activities identified in their Cooperative Agreement;
- B. Making any lawful use of the Enrolled Property after the management activities identified in the Cooperative Agreement have been initiated; or
- C. Returning Enrolled property to Baseline Conditions

11. MODIFICATIONS

A. Modification of the Agreement. Parties may propose amendments to this Agreement, as provided in 50 CFR 13.23, by providing written notice to, and obtaining the written concurrence of, the other party. Such notice shall include a statement of the proposed modification, the reason for it, and its expected results. The Parties will use their best efforts to respond to proposed modifications within 60 days of receipt of such notice. Proposed modifications will become effective upon the other Parties' written concurrence.

B. Termination of the Agreement. As provided for in Part 12 of the Service's Safe Harbor Policy (FR 64:32717), Cooperators may terminate Cooperative Agreements with the Program Administrator for circumstances beyond his or her control by giving 60 days written notice to the Program Administrator. In such circumstances, Cooperators may, pursuant to the permit referenced in paragraph 7.B.1 of this Agreement, return the enrolled property to Baseline within two years of the termination date even if the management activities identified in the Cooperative Agreement have not been fully implemented.

C. Permit Suspension or Revocation. The Service may suspend or revoke the permit referenced in paragraph 7.B.1 above for a reasonable cause, in accordance with the laws and regulations in force at the time of such suspension or revocation. The Program Administrator or any Cooperator has the right to appeal any suspension or revocation to a mutually agreed upon arbitrator.

D. Baseline Adjustment. The Baseline Conditions for any Enrolled Property may, by mutual agreement of the Parties and the Cooperators, be adjusted if, during the term of the Cooperative Agreement for reasons beyond the control of the Cooperators, the amount of CRLF habitat is reduced from what it was at the time the Cooperative Agreement was signed.

E. Inability of the Program Administrator to Continue. If the Program Administrator shall, for any reason, cease to be able to perform its obligations under this Agreement, it shall give written notice of that fact to the Service at the earliest possible time. Upon receiving such notice, the Service may, at its discretion after consultation with Cooperators, either amend this Agreement and the associated permit to substitute a new

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Program Administrator, or, if Cooperators prefer, convert any previously approved Cooperative Agreement into an individual agreement between the Cooperators and the Service under the same substantive terms.

12. OTHER MEASURES

A. Remedies. Each party shall have all remedies otherwise available to enforce the terms of the Agreement and the Permit, except that no party shall be liable in damages for any breach of this Agreement, any performance or failure to perform an obligation under this Agreement or any other cause of action arising from this Agreement.

B. Dispute Resolution. The Parties agree to work together in good faith to resolve any disputes, using dispute resolution procedures agreed upon by all Parties.

C. Succession and Transfer. As provided in Part 11 of the Service's Safe Harbor Agreement Policy, if Cooperators transfer his or her interest in the enrolled property to another non-federal entity, the Service will regard the new owner as having the same rights and responsibilities with respect to the enrolled property as the original Cooperators, if the new owner agrees to become a party to the Cooperative Agreement in place of the original Cooperators.

D. Availability of Funds. Implementation of this Agreement is subject to the requirements of the Anti-Deficiency Act and the availability of appropriated funds. Nothing in this Agreement will be construed by the Parties to require the obligation, appropriation, or expenditure of any funds from the U.S. Treasury. The Parties acknowledge that the Service will not be required under this Agreement to expend any Federal agency's appropriated funds unless and until an authorized official of that agency affirmatively acts to commit to such expenditures as evidenced in writing.

E. No Third-Party Beneficiaries. This Agreement does not create any new right or interest in any member of the public as a third-party beneficiary, nor shall it authorize anyone not a party to this Agreement to maintain a suit for personal injuries or damages pursuant to the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with respect to third parties shall remain as imposed under existing law.

F. Other Listed Species, Candidate Species, and Species of Concern. In the event that other listed species or species living in riparian or aquatic habitat not initially covered by this Agreement are subsequently listed as threatened or endangered under the Endangered Species Act and are listed species which are under U.S. Fish and Wildlife Service regulatory authority, the parties agree to amend this Agreement, and all Cooperative Agreements previously approved hereunder, to include such other species as Covered Species. The amendment of any Cooperative Agreement pursuant to this provision shall not change the Baseline Conditions set forth in such Cooperative Agreement at the time they were executed.

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H. Notices and Reports. Any notices and reports, including monitoring and annual reports, required by this Agreement shall be delivered to the persons listed below, as appropriate:

Safe Harbor Program
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, CA 95825

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Safe Harbor Agreement to be in effect as of the date that the Service issues the permit referred to in Part 7.B.1 above.

Program Administrator

Date

Field Supervisor
Sacramento Fish and Wildlife Service
U.S. Fish and Wildlife Service

Date

EXHIBIT 1
Cooperative Agreement

This is a voluntary agreement that recognizes the unique and important role that private landowners in California can play in helping wildlife valued by the people of California and of the nation. The purpose of the agreement is to enable land management activities beneficial to the California red-legged frog (*Rana aurora draytonii*) (CRLF) to be carried out on privately owned land while minimizing the impact of such activities on the right and ability of the owner thereof to use it as he or she wishes.

This Cooperative Agreement is a prerequisite for obtaining a Certificate of Inclusion under Cottonwood Creek Watershed Group's Safe Harbor Agreement (Agreement). The Agreement, between Cottonwood Creek Watershed Group (Program Administrator) and the U.S. Fish and Wildlife Service (Service), provides incentives for landowners within the Cottonwood Creek Watershed to restore, enhance, or maintain habitats for the CRLF. The Certificate of Inclusion authorizes incidental taking of CRLF through an enhancement of survival permit issued by the Service.

All parties signing this Cooperative Agreement are consenting to all the terms and conditions set forth in the signed Safe Harbor Agreement between the U.S. Fish and Wildlife Service and the Cottonwood Creek Watershed Group.

1. Involved Parties. This Cooperative Agreement, between Program Administrator and _____ (Cooperators) is intended to improve habitat for the betterment of wildlife, including the federally threatened CRLF, on certain land owned by the Cooperators.
2. Enrolled Property. Cooperators own property at [insert street and city address] in [county name], California (Enrolled Property). Enrolled property is further described in the attached property map.
3. Access to Enrolled Property. Cooperators agree to conduct, or allow to be conducted, activities to restore, enhance, or manage riparian and wetland habitat in accordance with the plan set forth below. The Cooperator agrees to allow the Program Administrator, their representatives, and the Service reasonable access to his or her property for the purposes of (1) ascertaining that the habitat improvements specified in this Cooperative Agreement have been implemented and are being maintained in the manner required by the Cooperative Agreement and the Agreement, (2) evaluating how well such improvements are benefiting the CRLF. Such entry shall be permitted by the Cooperators upon prior notice by the Program Administrator, and shall be made in a manner that will not unreasonably interfere with the Cooperators use and quiet enjoyment of his or her property.
4. Yearly Evaluation. The Cooperator agrees to provide the Program Administrator with a report, due one year after executing this Cooperative Agreement, and annually thereafter. Such report, in a simple format to be developed by the Program

Administrator, shall identify and describe management activities undertaken to restore, enhance, or manage CRLF habitat on the Enrolled Property in the preceding year and verification of baseline maintenance. Such report will also include information detailing how the restoration area has changed in the last year, if any CRLF were seen or heard and if any bullfrog control measures were undertaken in the preceding year. The Cooperator understands and agrees that the Program Administrator will include these annual reports with the reports that it is required to submit to the Service annually.

5. Baseline Determination

For a landowner to participate in this Agreement, the Baseline Conditions on his or her property must be determined. Under the Service's Safe Harbor Agreement policy (64 FR 32717), Baseline Conditions are defined as, "...population estimates and distribution and/or habitat characteristics and determined area of the enrolled property that sustain seasonal or permanent use by the covered species at the time the Safe Harbor Agreement is executed between the Service and the property owner. In those instances where use of the enrolled property is not currently subject to any restriction under the Endangered Species Act, this part of the Agreement should indicate that there are no baseline responsibilities applicable to the enrolled property.

5.1 Baseline Methodology

Baseline surveys must be completed prior to signing a Cooperative Agreement. A biological survey, conducted in a manner agreed upon by the Service, shall establish the presence or absence of individuals. If individuals are absent, Baseline is 0. If individuals are present, Baseline will be a description and measurement of suitable habitat as agreed upon by the Program Administrator and the Service. If the Enrolled Property is within the critical habitat for the CRLF, as determined by the Service, Baseline will be a description and measurement of suitable habitat as agreed upon by the Program Administrator and the Service. The Service's "Guidance on Site Assessment and Field Surveys for California red-legged frogs" (USFWS 1997) may be referenced.

The quantity and location of suitable CRLF habitat may be determined by:

- A physical description of entire property, including all current and planned land uses and time(s) of year land uses are (or will be) implemented with enough specificity to identify time and extent of impact by land management on suitable habitat and within 1 mile of suitable habitat.
- A thorough vegetative survey of wetland and riparian areas (with photos and established photo points)

Other optional information:

- Complete description of pools, ponds, springs, seeps, and other aquatic habitats, including size of ponds, maximum depth, presence of aquatic vegetation, amount and location of vegetated perimeter, amount of willow (*Salix* spp.), cattails (*Typha* spp.), and bulrushes (*Scirpus* spp.)
- Presence of threats to the CRLF, such as bullfrogs, warm water fish species, pollution sources, etc.
- Presence of other amphibians (e.g. foothill yellow-legged frog)

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- Map of Enrolled Property, with township, range, section, and elevation (in feet)
- Is project located within the Cottonwood Creek Core Area (as identified in the Recovery Plan)?

NOTE: If a CRLF is found, only people with a scientific collection permit issued by the U.S. Fish and Wildlife Service may physically handle frogs, tadpoles, or eggs.

6. Management Plan. Taking into account the results of the baseline assessment, the Program Administrator recommends the following management activities to enhance the quality of habitat on the Cooperators property and, the Cooperators agree to carry out, or have authorized representatives carry out the habitat improvements described below.

Management activities will be suitable activities selected from Exhibit 2 of the Agreement and will include the location, extent, and timeline for the implementation of each enhancement activity.

Such habitat shall be maintained for a period of 10 years from the date of Management Activity initiation.

NOTE: When conducting conservation enhancement activities at CRLF breeding sites, or other aquatic habitats, utilize the following measures to reduce the potential spread of disease and parasites. Prior to entering sites, remove mud, snails, algae, and other debris from nets, traps, boots, vehicle tires, and all other surfaces. Between sites, boots, nets, traps, etc. should then be scrubbed with 70 percent ethanol solution and rinsed clean with sterilized water. Avoid cleaning equipment in the immediate vicinity of a pond or wetland. Dedicate sets of nets, boots, traps, and other equipment to each site being visited. Clean and store them separately at the end of each field day.

7. Notification. Return of Enrolled Property to baseline must occur within two years after the expiration of the Cooperative Agreement and prior to the expiration of the enhancement of survival permit. The Cooperator agrees to notify the Program Administrator not less than 30 days prior to any activity that will return the property to Baseline Conditions. The Cooperators agree to allow the Service and the Program Administrator to access the property to rescue any individuals, if possible and appropriate, prior to returning the property to Baseline.

8. Land Sale. If Cooperators decide to sell or otherwise transfer ownership or management of the property, Cooperators agrees to give the Program Administrator notice of such decision prior to the intended sale or transfer. Cooperators will inform the Program Administrator in the event all, or part of, the Enrolled Property is transferred to another owner.

9. Length of Cooperative Agreement. This Cooperative Agreement will be valid from the last date of signature until it expires in [Month Day, Year].

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10. Relationship to Other Agreements. If this agreement is related to any other funding or cooperative agreements, etc. the nature of the relationship will be explained here.

11. Incidental Take Rights and Responsibilities. In consideration of the foregoing and the terms and conditions of the Agreement, the Program Administrator has issued the Cooperator the attached Certificate of Inclusion under the Program Administrator's permit. This Certificate of Inclusion authorizes Cooperators:

A. To take CRLF incidental to implementing the management activities set forth in this Agreement;

B. To carry out any other lawful activity that may cause the incidental taking of such species on Enrolled Property after initiation of, and consistent with such management activities, provided that such taking does not reduce the amount of habitat below the amount specified in the Baseline Conditions.

C. As used in this Cooperative Agreement, "incidental" take refers to the unintentional or unavoidable killing or injuring of the species identified above in the course of carrying out otherwise lawful activities. Nothing in this Cooperative Agreement authorizes Cooperators to capture, collect, or deliberately kill or injure CRLF.

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Cooperative Agreement this ---day of ----, 200_.

Program Administrator
Cottonwood Creek Watershed Group

Date

Cooperator

Date

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Certificate of Inclusion

This certifies that the property described as follows [DESCRIPTION], owned by [NAME OF COOPERATOR], is included within the scope of Permit No. ____ issued by the U.S. Fish and Wildlife Service on [DATE] for a period of __ years to the Cottonwood Creek Watershed Group [Program Administrator] under the authority of Section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539(a)(1)(A). Such permit authorizes certain activities by participating landowners as part of a safe harbor program to restore and enhance habitat for the California red-legged frog. Pursuant to that permit and this certificate, the holder of this certificate is authorized to engage in activities on the above described property that may result in the incidental taking of such species, subject only to the terms and conditions of such permit and the cooperative agreement entered into pursuant thereto by the Cottonwood Creek Watershed Group [Program Administrator] and [NAME OF COOPERATOR] on [DATE].

Name and Title of Representative
Cottonwood Creek Watershed Group

Date: _____

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Literature Cited

CH2MHill. 2002. Cottonwood Creek Watershed Assessment. 712 pp.

U.S. Fish and Wildlife Service. 1997. Guidance on Site Assessment and Field Surveys for California Red-legged Frogs (*Rana aurora draytonii*). U.S. Fish and Wildlife Service, Sacramento, CA. 6 pp.

U.S. Fish and Wildlife Service. 2002. Recovery Plan for the California Red-legged Frog (*Rana aurora draytonii*). U.S. Fish and Wildlife Service, Portland, Oregon. viii + 173 pp.

Exhibit 2
Management Activities

The Service has determined that implementation of the management activities listed below is expected to produce a net conservation benefit for the Covered Species. As more information about the Covered Species becomes available management activities may be added or modified.

At least one of the enhancement activities listed below shall be included in Cooperative Agreements provided that the activity will result in a net conservation benefit for the Covered Species.

Significant Activities

Controlling Predators and other Threats

- Eliminating bullfrogs, crayfish, mosquitofish, and other fishes
- Removing Arundo, Tamarix, and Pampas grass
- Locating new ponds away from known populations of predators

Installing Native Vegetation

- Installing native riparian vegetation for use by frogs for shade, foraging and attaching egg masses.
- Planting native perennial grasses around ponds and waterways.

Controlling Sedimentation & Siltation

- Stabilizing eroding streambanks, dam faces, and spillways.
- Planting riparian vegetation.

Managing Ponds

- Draining Ponds in late summer (September or early October) to eliminate predators such as bullfrogs, crayfish, bass, catfish, sunfish, and mosquitofish. Temporary catch basins may be created to catch the water from drained ponds for use.
- Installing drains in new ponds.
- Encouraging small isolated ponds (i.e. dug out springs), which do not support bullfrog populations.
- Managing ponds to have both deep water (> 3 feet) and shallow areas. Shallow areas should be unshaded and sufficiently shallow to allow water to warm quickly in the winter.
- Planting willows (*Salix spp.*), cattails (*Typha spp.*), or bulrushes (*Scirpus spp.*) in deeper areas to shade the water and keep it cool.
- Planting cattails, tules (*Scirpus spp*) and horsetails (*equisetum spp.*) in part of shallow areas to create areas for attaching egg masses.
- If livestock are prevented from accessing ponds, managing vegetation in shallow areas to prevent overgrowth.

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- Allowing reintroduction of CRLF and the future removal (translocation) of CRLF by state or federal agencies on Enrolled Property.

Managing Livestock (including cattle, horses, goats, sheep, pigs)

- Preventing livestock from grazing extensively around springs and water sources.
- Separating livestock loafing areas from known and potential breeding sites.
- Managing grazing near riparian areas.
- Eliminate livestock access to riparian areas
- Where practical and feasible exclude cattle from small ponds especially during CRLF breeding season (November through April).

Managing Agriculture

- In areas of intensive cultivation, creating buffers around wetlands.
- In areas that have water diversions or where instream pumping occurs, screening intakes to minimize effects.
- Avoiding fire suppression activities within 500 feet of water courses and ponds, except for maintaining fire fighter safety and protection of life and property. Fuels management activities within 300 feet of known populations of CRLF should be used only to enhance ecosystem health, such as for reducing fuels or controlling non-native species. Fuels reduction activities should be carried out during seasons when CRLF are not likely to be dispersing or estivating in upland habitats (November through April).

Other Activities

Recreation

- Controlling illegal access into streams and riparian areas to control dumping of trash, vehicular and recreational vehicles use (e.g. ATV's and motorcycles)
- Minimizing impacts of existing recreational sites (e.g. campgrounds) in or near streams and ponds.
- Avoiding introduction of warm water species and bullfrogs into new or existing ponds that may have suitable habitat characteristics for the CRLF.
- Encouraging legal fishing within the watershed of warm water fish species.

Land Management Activities (includes: gravel mining, timber harvest, oak management, firewood collection, rock collection for landscaping use, prescribed burning)

- Avoiding impacts to riparian habitat especially during winter and early spring.
- Avoiding entry into deep pools (>2.0 ft.)
- Avoiding fire suppression and fuels management activities within 300 feet of water courses and ponds.

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EXHIBIT 3
Annual Report for
Safe Harbor Agreement between the U.S. Fish and Wildlife Service
and Cottonwood Creek Watershed Group

Permittee's Name: Cottonwood Creek Watershed Group

Permit Tracking Number: TE-XXXXXX-0

Location: Shasta and Tehama Counties, California

Agreement Approved by: Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service

Covered Species: California red-legged frog

Report on the Monitoring Program (1-2 paragraphs): Describe in general terms the results of any assessments carried out pursuant to Section 7 of the Safe Harbor Agreement in the year covered by the report; append a copy of the report. Describe any major changes in habitat included in the baseline survey. Append to this report copies of all reports submitted to the Program Administrator by Cooperators since the last annual report.

Date Annual Report is Due: On or before April 15, for the prior calendar year

Date Annual Report was Received: _____

Date Annual Report was Reviewed: _____

Signature of Reviewer: _____

Printed Name and Phone # of Reviewer _____

Report on Area wide Management and Conservation Actions (1-2 paragraphs): As necessary to supplement the monitoring reports above, summarize the condition of areas on the collective enrolled properties. Describe any apparent year-to-year trends in restoration success in the region. Describe any relevant regional conditions (e.g., drought, flood) that may enhance understanding of the appended annual reports from the Cooperators. Finally, please convey any suggestions for adaptive management of created areas that may have emerged from the program so far.

EXHIBIT 4
Neighboring Landowner Agreement

1. [Owner] owns land (hereafter “the Property”) in Shasta or Tehama County, California, that is designated on the attached map and that is adjacent to land enrolled in the Programmatic Safe Harbor Agreement between the Cottonwood Creek Watershed Group and the United States Fish and Wildlife Service (hereafter “the Service”), dated [date]. The Programmatic Safe Harbor Agreement, and the permit issued by the Service to the Cottonwood Creek Watershed Group in connection therewith, authorizes participating landowners who enter into cooperative agreements to restore aquatic and riparian habitat on land enrolled in the program to take the threatened California red-legged frog incidental to farming, ranching, and other lawful activities on the enrolled land, provided that baseline habitat conditions as specified in such cooperative agreements are maintained.

2. The Cottonwood Creek Watershed Group serves as the Program Administrator of the foregoing Programmatic Safe Harbor Agreement, and as such is authorized by that Agreement to enter into both cooperative agreements with landowners who enroll land in the Programmatic Agreement, and similar Neighboring Landowner Agreements with landowners who own land adjacent to land enrolled in the Agreement. Such Neighboring Landowner Agreements confer upon such neighboring landowners the same rights to take endangered species incidental to lawful activities on such neighboring land, subject to requirements as are set forth in this Agreement, as cooperative agreements confer upon landowners who enroll land in the Programmatic Agreement.

3. The Cottonwood Creek Watershed Group has determined that the “baseline conditions” applicable to the Property shall be based upon a survey to determine the presence or absence of CRLF and a vegetative survey of wetland and riparian areas (photos optional). The amount and condition of habitat determined by the survey shall be considered the baseline applicable to the property for the purposes of this Agreement. So long as at least that amount of habitat remains in the same general locations on the Property, [owner] may incidentally take California red-legged frogs in the course of any lawful use of the property, subject to Section 4 below. As used herein, “incidental” take refers to the unintentional or unavoidable killing or injuring of California red-legged frogs in the course of carrying out otherwise lawful activities. [The restoration of aquatic and riparian habitat on land enrolled in the Program shall not affect in any way the use by the Owner of pesticides or herbicides on the Property. Nothing herein authorizes [Owner] to capture, collect, or deliberately kill or injure any such frogs.

Comment [MSOffice1]: This is a new sentence that clarifies how the new language in Section 10 affects neighboring landowners.

4. [Owner] agrees to give the Cottonwood Creek Watershed Group at least 90 days notice (except when precluded by emergency situations) prior to commencing any change in land use likely to reduce the amount and condition of aquatic and riparian habitat on the Property, and to allow the Program Administrator or the Service the opportunity to rescue and relocate any individual California red-legged frogs from the Property to avoid their loss.

November 9, 2006

5. This Neighboring Landowner Agreement remains in effect until the expiration of the Programmatic Safe Harbor Agreement between the Cottonwood Creek Watershed Group and the Service on [date].

[Owner]

Date

Cottonwood Creek Watershed Group

Date