



DEPARTMENT OF FISH AND GAME

http://www.dfg.ca.gov
4949 Viewridge Avenue
San Diego, CA 92123
(858) 467-4201



March 11, 2004

Browning Ferris Industries of California
Attn: Frank Kiesler
14747 San Fernando Road
Sylmar, CA 91342

Dear Mr. Kiesler:

Enclosed is Streambed Alteration Agreement # **R5-2003-0005** that authorizes work on the Sunshine Canyon Landfill Expansion project impacting unnamed drainages to Bull Creek in Los Angeles County. This action is authorized under Section 1600 of the Fish and Game Code and has been approved by the California Department of Fish and Game. Pursuant to the requirements of the California Environmental Quality Act (CEQA), the Department filed a Notice of Determination (NOD) on the project on 3-11-04. Under CEQA regulations, the project has a 30-day statute of limitations on court challenges of the Department's approval under CEQA.

The Department believes that the project fully meets the requirements of the Fish and Game Code and CEQA. However, if court challenges on the NOD are received during the 30-day period, then an additional review or even modification of the project may be required. If no comments are received during the 30-day period, then any subsequent comments need not be responded to. This information is provided to you so that if you choose to undertake the project prior to the close of the 30-day period, you do so with the knowledge that additional actions may be required based on the results of any court challenges that are filed during that period.

Please contact Betty Courtney at (661) 263-8306 if you have any questions regarding the Streambed Alteration Agreement.

Sincerely,

C.F. Raysbrook
C.F. Raysbrook
Regional Manager

Enclosure

cc: Betty Courtney

CALIFORNIA DEPARTMENT OF FISH AND GAME
4949 Viewridge Ave.
San Diego, California 92123

Notification No. R5-2003-0005 revision 3
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February 24, 2004

AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and Frank Kiesler (General Manager) of Browning Ferris Industries of California, 14747 San Fernando Road, Sylmar, CA 91342 (818) 833-6511, State of California, hereinafter called the Operator, is as follows:

WHEREAS, pursuant to Section 1603 of California Fish and Game Code, the Operator, on the 7th day of January, 2003, notified the Department that they intend to divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from the streambed(s) of, the following water(s): unnamed drainages a tributary to the Bull Creek, Los Angeles County, California, Sections 23 and 24 Township 3N Range 16W of USGS Oat Mountain Quadrangle, Lat/Long 34°19'23.0160"/ 118°30'20.9880"; County Assessor's Parcel Number Lot 9 of Tract No. 10422, recorded in Book 157 pp.38-44.

WHEREAS, the Department (represented by Betty J. Courtney) through a site visit on June 27, 2002 and subsequent information) has determined that such construction may substantially adversely affect those existing fish and wildlife resources within unnamed drainages a tributary to Bull Creek, specifically identified as follows: ***** Silvery legless lizard, San Diego banded gecko, San Bernardino ringneck snake, coast patch-nosed snake, San Diego horned lizard, Coastal western whiptail, California horned lark, loggerhead shrike, Coastal California gnatcatcher, Southwestern willow flycatcher, least Bell's vireo, Yellow warbler, White -tailed kite, Cooper's hawk, Golden eagle, Prairie falcon, Southern California rufous-crowned sparrow, Vanix's swift, California Spotted Owl, western burrowing owls, northern harrier, ferruginous hawk, sharp-shinned hawk, merlin, Los Angeles pocket mouse, San Diego desert woodrat, San Diego black-tailed jackrabbit, American badger, Pallid bat, ringtail, spotted bat, California mastiff bat, pale big-eared bat, Great's aster, Braunton's milkvetch, round-leaved boykinia, Brewer's calandrinia, Catalina mariposa lily, Slender mariposa lily, plummer's mariposa lily, Peirson's morning glory, island mountain-mahogany, southern mountain misery, Catalina crossosoma, Santa Susana tarplant, Southern California black walnut, fragrant pitcher sage, ocellated Humboldt lily, California spineflower, adoby yampah, Fish's milkvetch, Coulter's matilija poppy and arroyo willow series, southern willow scrub, mulefat scrub, Coast live oak woodland, Venturan coastal sage scrub, southern CA black walnut woodland).

THEREFORE, the Department hereby proposes measures to protect fish and wildlife resources during the Operator's work. The Operator hereby agrees to accept the following measures/conditions as part of the proposed work.

If the Operator's work changes from that stated in the notification specified above, this Agreement is no longer valid and a new notification shall be submitted to the Department of Fish and Game. Failure to comply with the provisions of this Agreement and with other pertinent code sections, including but not limited to Fish and Game Code Sections 5650, 5652, 5937, and 5948, may result in prosecution.

Nothing in this Agreement authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of responsibility for compliance with applicable federal, state, or local laws or ordinances. A consummated Agreement does not constitute Department of Fish and Game endorsement of the proposed operation, or assure the Department's concurrence with permits required from other agencies.

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This Agreement becomes effective the date of the Department's signature and the construction portion terminates on 6/1/2008. This Agreement shall remain in effect to satisfy the terms/conditions of this Agreement. Any provisions of the agreement may be amended at any time provided such amendment is agreed to in writing by both parties. Mutually approved amendments become part of the original agreement and are subject to all previously negotiated provisions.

1. The following provisions constitute the limit of activities agreed to and resolved by this Agreement. The signing of this Agreement does not imply that the Operator is precluded from doing other activities at the site. However, activities not specifically agreed to and resolved by this Agreement shall be subject to separate notification pursuant to Fish and Game Code Sections 1600 et seq.

2. The Operator proposes to alter the streambed by the removal of 4.14 acres of streambed of which 3.34 acres are defined as riparian/wetlands and 0.8 acres is unvegetated streambed. Of the 3.34 acres of riparian/wetlands 2.61 acres consist of arroyo willow scrub and 0.74 acres of southern willow scrub. The 0.8 acres does not have associated riparian habitat (Drainage F and upper reaches of Drainage A). Precipitation outside of the landfill footprint, but which would normally flow towards the landfill will be directed to the sediment basin; Precipitation which falls within the inactive portion of the landfill or the "closed" portion of the landfill will be directed to the sediment basin. From the sediment basin these water will enter the normal stream system downstream. Precipitation which falls on the active or operational portion of the landfill will be captured, contained and treated on site (these waters will be used in daily operations of the landfill and will not enter the natural system). Per RWQCB 401 Certification restoration (revegetation of willow riparian and mulefate scrub) of Bull Creek (up to two acres between Balboa Blvd. and Rinaldi St.) within the community of Granada Hills will be completed (A copy of the Restoration Plan will be submitted to the Department for approval prior to implementation).

Drainage A) section A7A upstream to section A13, including all of tributary AR2 and AR3 will be permanently impacted.

Drainage G) section G1 to G3A will be permanently impacted.

Drainage F) section F4 upstream, including all of tributary FL 1-1, FL2-1 and FR2-1A will be permanently impacted.

Wetland area W-2 and W-3 will be permanently impacted.

3. The agreed work includes activities associated with No. 2 above. The project area is located in unnamed drainages tributaries to Bull Creek in Los Angeles County. Specific work areas and mitigation measures are described on/in the plans and documents submitted by the Operator, including the Chatsworth Site Wetland Mitigation Plan for Landfill Extension, Notification Booklet including 2002 biological surveys, 2001 streamzone assessment, Biological Resources section from the SEIR for Sunshine Canyon Landfill and BFI Sunshine Canyon Mitigation Plan for the Chatsworth Wetland/Riparian Mitigation Plan and shall be implemented as proposed unless directed differently by this agreement. Contact Frank Kiesler at Phone: (818) 833-6511 for additional information.

4. COPIES OF THIS AGREEMENT AND ALL REQUIRED PERMITS AND SUPPORTING DOCUMENTS, PROVIDED WITH NOTIFICATION OR REQUIRED BY THIS AGREEMENT SHALL BE READILY AVAILABLE AT THE WORK SITE(S) AT ALL TIMES DURING PERIODS OF WORK.

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5. The Operator certifies by signing this agreement that the project site has been surveyed and shall not impact any rare, threatened or endangered species; or the Operator certifies that such a survey is not required for the proposed project. If rare, threatened or endangered species occur within the proposed work area, or could be impacted by the work proposed, the Operator shall consult with the Department and obtain any required State and/or Federal permits.

6. The Operator shall request an extension of this agreement prior to its termination. Extensions may be granted for up to 12 months from the date of termination of the agreement and are subject to Departmental approval. The extension request and fees shall be submitted to the Department's Region 5 Office at the above address. If the Operator fails to request the extension prior to the agreement's termination, then the Operator shall submit a new notification with fees and required information to the Department. Any activities conducted under an expired agreement are a violation of Fish and Game Code Section 1600 et. seq.

<< WORK AREAS AND VEGETATION REMOVAL >>

7. The Operator shall not permanently impact more than 4.14 acres of the stream/river.

8. Disturbance or removal of vegetation shall not exceed 4.14 acres, the limits approved by the Department. All portions of the stream/river temporarily impacted shall be restored to original conditions.

9. The work area or grading limits area shall be fenced to identify its limits, as represented in Delineation/Limits Map dated 12/02 and the Notification Packet. Vegetation shall not be removed or intentionally damaged beyond these limits. Measures shall be implemented to prevent materials from entering the streambed from the grading/work area.

10. The Operator shall not remove vegetation from the project site from March 15 to September 1 to avoid impacts to nesting birds, or Prior to construction or site preparation activities, the Operator shall have a qualified biologist survey all potential nesting vegetation within the project site for nesting birds. Surveys will begin no later than June 1. Surveys will be conducted every 7 days for 6 weeks until July 1. Documentation of findings, including a negative finding must be submitted to the Department for review and concurrence. If no nesting birds are observed and concurrence has been received from the Department, site preparation and construction activities may begin. If an active bird nest is located and concurrence has been received from the Department, the nest site shall be fenced a minimum of 300 feet (500 feet for raptors) in all directions, and this area shall not be disturbed until the nest becomes inactive. Raptor nests site along the cliffs shall be temporarily made inaccessible and two temporary platforms shall be created in areas that will not be impacted by the construction activities.

11. Vegetation removed from the stream shall not be stockpiled in the stream bed or on its bank. The sites selected on which to push this material out of the stream should be selected in compliance with the other provisions in this Agreement.

12. There shall be no net loss of oaks, CA Black Walnuts, and Big Leaf Maples which must be removed. The planting plan shall be consistent with condition # 50.

<<EQUIPMENT AND ACCESS >>

13. Staging/storage areas for equipment and materials shall be located outside of the stream/lake.

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14. Vehicles shall not be driven or equipment operated in water covered portions of a stream or lake, or where wetland vegetation, riparian vegetation, or aquatic organisms may be destroyed, except as defined in condition #2 and during the construction of the diversion.

15. Access to the worksite shall be via existing roads and access ramps and shall be placed where the least vegetation removal or grading is necessary.

<<FILL AND SPOIL>>

16. Spoil sites shall not be located within a stream/lake, where spoil shall be washed back into a stream/lake, or where it will cover aquatic or riparian vegetation.

17. Fill length, width, and height dimensions shall not exceed those of the original grading plans and channel reconstruction plans for size and materials (as final plans approved by the City of Los Angeles). The Operator shall have plans available on-site for Departments review. Fill shall be limited to the minimal amount necessary to accomplish the agreed activities. Except as otherwise specified in this Agreement, fill construction materials other than on-site alluvium shall consist of clean silt-free gravel or river rock.

<<STRUCTURES>>

18. Structures and associated materials not designed to withstand high seasonal flows shall be removed to areas above the high water mark before such flows occur.

19. Any materials placed in seasonally dry portions of the stream or lake that could be washed downstream or could be deleterious to aquatic life shall be removed from the project site prior to inundation by high flows.

20. The Operator shall construct an effective water velocity dissipation device at the outlet structure to minimize erosion.

<<POLLUTION, SEDIMENTATION, AND LITTER>>

21. Preparation shall be made so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.

22. Water containing mud, silt or other pollutants from aggregate washing or other activities shall not be allowed to enter a lake or flowing stream or placed in locations that may be subjected to high storm flows.

23. Post-construction monitoring shall occur for 2 years to ensure that muds, silts and other pollutants from newly created slopes and other areas do not enter the streambed.

24. **Raw cement/concrete or washings thereof, asphalt, paint or other coating material, oil or other petroleum products, or any other substances which could be hazardous to aquatic life, resulting from project related activities, shall be prevented from contaminating the soil and/or entering the waters of the state. Any of these materials, placed within or where they may enter a stream/lake, by Operator or any party working under contract, or with the permission of the Operator, shall be removed immediately.**

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25. The Operator shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the operator to ensure compliance.
26. No unauthorized debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organic or earthen material from any 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. No unauthorized rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.
27. No equipment maintenance shall be done within or near any stream channel or lake margin where petroleum products or other pollutants from the equipment may enter these areas under any flow (minimum of 150 feet).
28. Any equipment or vehicles driven and/or operated within or adjacent to the stream/lake shall be checked and maintained daily, to prevent leaks of materials that if introduced to water could be deleterious to aquatic life.
29. Any equipment brought to the site shall be washed and free of weed seeds and other organisms.
30. Equipment shall not be operated in wetted areas (including but not limited to ponded, flowing or wetland areas) without the prior written approval of the Department.
31. Precautions to minimize turbidity/siltation shall be taken into account during project planning and implementation. All precautionary measures shall be approved by the Department and may include the negotiation of additional Agreement provisions. Debris and dust from construction activities shall be prevented from entering the water or stream bottom.
32. When work in a flowing stream is unavoidable, the entire stream flow shall be diverted around the work area by a barrier, temporary culvert, new channel, or other means approved by the Department. Location of the upstream and downstream diversion points shall be approved by the Department. Construction of the barrier and/or the new channel shall normally begin in the downstream area and continue in an upstream direction, and the flow shall be diverted only when construction of the diversion is completed. Channel bank or barrier construction shall be adequate to prevent seepage into or from the work area. **Diversion berms shall be constructed of onsite alluvium of low silt content, sand bags, or other approved materials.** Channel banks or barriers shall not be made of earth or other substances subject to erosion unless first enclosed by sheet piling, rock rip-rap, or other protective material. The enclosure and the supportive material shall be removed when the work is completed and removal shall normally proceed from downstream in and upstream direction. The Operator shall submit diversion plans for approval from the Department prior to initiation of construction activities.
33. Stationary equipment such as motors, pumps, generators and welders, located within or adjacent to the stream/lake shall be positioned over drips pans.
34. Flow diversion shall be done in a manner that shall prevent pollution and/or siltation and which shall provide flows to downstream reaches. Flows to downstream reaches shall be provided during all times that the natural flow would have supported aquatic life. Said flows shall be sufficient quality and quantity, and of appropriate temperature to support aquatic life both above and below the diversion. Normal flows shall be restored to the affected stream immediately upon completion of work at that location.

