



California Department of Fish and Wildlife
Central Region
1234 EAST SHAW AVENUE
FRESNO, CALIFORNIA 93710

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HABITAT CONSERVATION
PLANNING BRANCH

California Endangered Species Act
Incidental Take Permit No. 2081-2016-051-04

AUSTIN QUARRY PROJECT

Authority: This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take¹ of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.² CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

Permittee:	CalMat Company dba Vulcan Materials Company, West Region
Principal Officer:	Kevin Torell, Area Manger
Contact Person:	Kevin Torell, 510-340-8215
Mailing Address:	4101 Dublin Boulevard, PMB#144, Suite F Dublin, California 94568

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **June 1, 2068**.

Notwithstanding the expiration date on the take authorization provided by this ITP, the Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 7.9 of this ITP.

¹Pursuant to Fish and Game Code section 86, "'take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 [for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "'take' ... means to catch, capture or kill"].)

²"The definition of an endangered, threatened, and candidate species for purposes of CESA are found in Fish and Game Code sections 2062, 2067, and 2068, respectively.

Project Location:

Generally, the approximately 672-acre Austin Quarry Project (Project) site is located southwest of the intersection of State Route (SR) 145 and SR 41 in central Madera County (Figure 1) and approximately 12 miles east of the City of Madera. More specifically, the Project site constitutes portions of the parcels identified APN 051-185-004 and 051-183-001 located within Sections 4 and 5 of Township 11 South, Range 20 East, Mount Diablo Baseline and Meridian. The Project site and surrounding lands exist as rangeland. The Project site is owned by the Urrutia family and will be leased to the Permittee.

Project Description:

The Project involves development and operation of a hard rock quarry over approximately half of the 672-acre Project site. The approximately 348-acre Project Area (Project Area) will encompass an aggregate mine that will not exceed 257 acres and processing plant/operations/access road area that will not exceed 92 acres. The remaining area of the Project site will be placed into an approximately 324-acre Exclusion Area which will be completely avoided and left undisturbed for the life of the Project (Figure 2). Project implementation will commence in 2018 and the quarry will operate for 97 years, at which time aggregate mining/processing will cease and a three-year reclamation phase will commence.

The approximately 92-acre processing plant/operations/access road area will include a 78-acre plant site and materials processing facility. The plant site and materials processing facility will be comprised of an aggregate processing plant, rock conveyor/crushing/washing equipment, aggregate stockpile areas, a 0.5-acre process and storm water storage/recycling pond, freshwater conveyance facilities, an above-ground clarifier and water tank, a well, load-out facility, load-out scales, a maintenance shop, and administrative offices. The plant site will also include areas for transport-vehicle staging and employee vehicle parking. In addition, the plant/operations/access road area will include a 4-acre paved entrance road connecting with SR 145, through which all Project-related traffic will enter and exit. Approximately 7 acres of perimeter roads will serve the quarry. Also, an approximately 3,000-foot long/1.4-acre linear segment along the south side of SR 145 to the west of the paved entrance road will be landscaped and irrigated to provide a vegetative screen. An 8.56-acre, 10-foot-high vegetated berm along the northern quarry perimeter will provide visual screening. An additional 4-foot-high vegetated berm along the eastern, southern, and southwestern perimeter will serve as a safety barrier. These berms will be constructed as components of buildout of each project phase.

The processing plant/operations/access road area will also include the diverted reach of a storm water swale. A natural drainage channel traverses the quarry site and drains from north to south. Prior to topsoil removal, this seasonal drainage will be routed west around the Project Area by pipe to an existing downstream point within the natural drainage channel upstream of Madera Canal. The diversion pipe will be installed underground and be maintained for the lifespan of quarry operations.

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The approximately 257-acre aggregate mine will be developed over six (6) phases (Figure 3). Project implementation will commence in 2018 with concurrent development of Phase 1; a retention and recharge basin, conveyance pipeline, and overburden stockpiling area within the boundary of Phase 6; the processing plant/operations/access road area; installation of visual/safety barrier berms using the topsoil and overburden from Phase 1; and the piped diversion of a natural swale around the aggregate mine. Quarrying of Phase 1, which will not exceed 42 acres, will begin in 2018 and continue over approximately 10 years. Phases 2 through 6 of the mine will be quarried in accordance with the schedule set forth in Table 1, below.

Table 1 Mine Phasing Schedule		
Mine Phase	Phase Acreage* (ac)	Phase Development (yr)
2	52 acres	2028
3	26 acres	2046
4	59 acres	2055
5	15 acres	2072
6	63 acres	2083
* Acreages are approximate		

At each mine phase, hard rock will be exposed by removing the topsoil and overburden, then extracted by drilling, blasting, and crushing the hard rock to moveable sizes, which can be transferred to the on-site processing plant for further crushing, sizing, washing, and stockpiling. Groundwater encountered within the mine pit will be pumped to the retention and recharge basin initially constructed within the boundary of mine Phase 6. When mine Phase 6 is prepared for mining in 2083, the retention and recharge basin will be relocated to the processing plant/operations/access road area. None of the encountered groundwater will be discharged from the Project Area outside of the rainy season (December through April). This discharge during the rainy season will: coincide with storm events producing storm water run on into the mine; be limited in volume to just mimic run on into the mine; and will be in compliance with Waste Discharge Requirements adopted by the California Regional Water Quality Control Board for the Project.

Development of the processing plant/operations/access road area and each phase of the mine will involve the use of heavy equipment for vegetation clearing, grubbing, excavation, backfilling, stockpiling, compacting, grading, contouring, trenching, paving, blasting, and the transport and handling of construction materials. The heavy equipment needed to accomplish development of the quarry will include bulldozers, excavators, excavator hammers, backhoes, trenchers, wheel tractors, motor graders, shovel scrapers, water trucks, front-end loaders, pavers, sweepers, rollers, rock drillers, man lifts, artificial lighting, service trucks,

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cranes, and haul trucks. Operation of the quarry for the production of crushed aggregate will involve some of the same equipment.

In 2115, mining operations will cease and the three-year long reclamation phase of the Project will be initiated, in accordance with the *Reclamation Plan* approved for the Project by Madera County. Upon final reclamation, the diversion pipe diverting the storm water swale will be removed and a surface drainage channel will be constructed around the quarry excavation along an alignment similar to the diversion pipe alignment.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ³

This species and only this species is the "Covered Species" for the purposes of this ITP.

Impacts of the Taking on Covered Species:

The Project activities which are expected to result in incidental take of individuals of the Covered Species are collectively referred to as the **Covered Activities**, and, as described above include blasting; operation of heavy equipment to accomplish grading, cut-and-fill, scraping, contouring, vegetation-clearing, grubbing, excavating, trenching, stockpiling, backfilling, compacting, paving, and drilling in association with the development and mining activities at the Project Area; as well as pre-disturbance excavation of small mammal burrows, salvage, and relocation efforts required by this ITP.

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities. This mortality could occur as a result of: construction vehicle/equipment strikes and burrow collapse associated with earthwork, vegetation removal, road construction; crushing or suffocation by heavy equipment or laydown of equipment and materials; entrapment and desiccation within trenches, open pipelines, and uncovered excavations; entombment from deposition of stockpiled soil over occupied burrows, and during vegetation removal and earthwork associated with development of roadbeds, paved parking, building pads, and other infrastructure. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursuit or capture through: entrapment in holes or trenches; capture of individuals in confined areas when exclusion fencing is constructed around portions of the Project Area, and when individuals of the Covered Species are salvaged, collected, and relocated or translocated out of harm's way as required by this ITP. Take of the Covered Species is only authorized and expected to occur in the Project Area and only as a result of Covered Activities.

³ See Cal. Code Regs. tit. 14 §670.5, subd. (b)(3)(G).

The Project is expected to cause the permanent loss of 345 acres of upland refugia habitat and three (3) acres of potential breeding habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: introduction or spread of invasive species; changes in drainage patterns that favor different vegetative growth; stress resulting from noise and vibrations from earthwork, equipment operation, blasting, and traffic; temporary displacement; increased competition for food and space; increased vulnerability to predation, exposure, or stress through disorientation; loss of foraging opportunities; and loss of burrowing habitat used for shelter and escape cover. Individuals displaced due to habitat loss and degradation may be unable to survive in adjacent areas if these areas are at carrying capacity or are unsuitable for colonization.

Incidental Take Authorization of Covered Species:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for capture and relocation of Covered Species as authorized by this ITP.

Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for ingress and egress, staging and parking and noise and vibration generating activities that may/will cause take. CDFW's issuance of this ITP and Permittee's authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **California Environmental Quality Act Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2010071036) certified by Madera County Planning Department on 12 September 2016 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

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3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) Notification No. 1600-2014-0228-R4 for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Formal Consultation on the *Vulcan Material Aggregate Mining, Austin Quarry Project, Madera County, California* (Service File No. 81420-2009-F-0061) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
6. **General Provisions:**
 - 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 6.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting, and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed. The Designated Biologist(s) may be assisted by approved biologists identified as Biological Monitors that do not meet the qualifications to be a Designated Biologist. Biological Monitors and their activities shall be approved in advance

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and in writing by CDFW. No agreement/contract between the Permittee, its contractors, and/or the Designated Biologist shall prohibit open communication with CDFW.

- 6.3. Designated Biologist and Biological Monitor Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist(s) and Biological Monitor(s) shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure(s) to avoid the unauthorized take of an individual of the Covered Species.
- 6.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 6.5. Operation Monitoring Notebook. The Designated Biologist shall maintain an operation-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the operation-monitoring notebook is available for review at the Project site upon request by CDFW.
- 6.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.

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- 6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.
- 6.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material.
- 6.9. Delineation of the Project Area of the Project Site. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the 348-acre Project Area to distinguish it from the approximately 324-acre on-site Exclusion Area (representing the balance of the Project site). The boundary of the Project Area shall be delineated with stakes and/or flags and shall be maintained with signage for the life of the Project.
- 6.10. Delineation of Work Area Boundaries. Before starting Covered Activities at each phase of development, the Permittee shall clearly delineate the boundaries of the active Work Area where the Covered Activities will occur for that development phase with fencing, stakes, or flags. A Work Area is defined as the discrete zone(s) within the Project Site where Covered Activities will actively occur for that development phase. Permittee shall restrict all Covered Activities during that development phase to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that Work Area.
- 6.11. Project Area Access. Project-related personnel shall access the Project Area from SR 145, the dedicated route for the Project, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification. Access to the on-site Exclusion Area shall be prohibited.
- 6.12. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat

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outside of the delineated Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.

- 6.13. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall properly contain and dispose of any hazardous wastes produced within the Project Area.
- 6.14. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project site and Habitat Management lands (described below) and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.15. Refuse Removal. Upon completion of Covered Activities in each Work Area, Permittee shall remove from each Work Area and properly dispose of all temporary fill, stockpiled mined materials, and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities at each phase and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if he/she determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when topsoil removal, overburden removal, other mass grading, or other initial ground-disturbing Covered Activities occur in each phase. For each phase, the Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and exclusion and delineating fence

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are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, relocation efforts, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of once quarterly within the Project Area during periods of inactivity and after initial clearing, grubbing and grading (including topsoil and overburden removal) are completed.

- 7.4. Covered Species Mortality Reduction and Relocation Plan. Prior to initiating Covered Activities, the Designated Biologist(s) shall prepare, and submit to CDFW for written approval, a Covered Species Mortality Reduction and Relocation Plan. The Covered Species Mortality Reduction and Relocation Plan shall include, but not be limited to; a discussion of the survey, excavation method, capture, handling, and relocation methods; a protocol for the conditional passive exclusion (trapping out) of the Covered Species over the deferred mine phases; identification of where the salvaged individuals will be relocated to; and identification of a wildlife rehabilitation center or veterinary facility where injured individuals of the Covered Species will be taken. The Covered Species Mortality Reduction and Relocation Plan must indicate that only the approved Designated Biologist(s) is/are authorized to capture and handle individuals of the Covered Species.
- 7.5. As-Built Plans. Permittee shall submit as-built plans to CDFW within six (6) months of completing construction of individual Project phases. The as-built plan sheets shall delineate and quantify the extent of all facilities, infrastructure, and features associated with the Project phase. The as-built plans shall include an estimate of disturbance resulting from construction and quarrying by highlighting the disturbance areas on the as-built plan sheets. Plans shall include topographic data, with contour intervals not to exceed five feet, as a background layer. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. Plans shall be derived from engineering survey data acquired after Project construction and shall be verified by the Designated Biologist(s). The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.
- 7.6. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3, as well as the As-Built Plans identified in Condition of Approval 7.5, into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation

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status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail no later than the 15th day of every third month to CDFW's Regional Representative and Regional Office and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Jim Vang (jim.vang@wildlife.ca.gov), the Regional Office CESA Program email is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

- 7.7. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.3; (2) As-Built Plans identified in Condition of Approval 7.5, (3) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (4) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (5) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (6) all available information about Project-related incidental take of the Covered Species; and (7) information about other Project impacts on the Covered Species.
- 7.8. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.9. Final Mitigation Report. The Permittee shall provide CDFW with a Final Mitigation Report no later than 45 days after the expiration of this ITP. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates

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of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project-related impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

- 7.10. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4014. The initial notification to CDFW shall include information regarding the location, species, number of animals taken or injured, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two (2) calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

8. Take Minimization Measures:

The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. Permittee shall implement and adhere to the following conditions to minimize take of the Covered Species:

- 8.1. Pre-Activity Clearance Surveys and Reporting. Prior to initiating Covered Activities in each phase, the Designated Biologist shall survey that portion of the Project Area, where those Covered Activities will be initiated, for individuals of the Covered Species. These surveys shall provide 100 percent visual coverage of the area, including burrow openings in each phase and a 50-foot buffer zone around each phase. If individuals of the Covered Species are found, the Designated Biologist(s) shall relocate them from the Project Area in accordance with the CDFW-approved *Covered Species Mortality Reduction and Relocation Plan* (Condition of Approval 7.4). The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities within each phase.
- 8.2. Flag Burrows. During the Pre-Activity Clearance Surveys (Condition of Approval 8.1), the Designated Biologist shall flag all small mammal burrows which could potentially harbor individuals of the Covered Species. Those flagged burrows which occur within 562 meters of known or potential breeding

habitat and which cannot be avoided by 50 feet shall be fully excavated in accordance with Condition of Approval 8.3 below.

- 8.3. Small Mammal Burrow Excavation. All small mammal burrows identified and flagged per Conditions of Approval 8.1 and 8.2 and within 562 meters of known or potential Covered Species breeding habitat and that cannot be avoided by 50 feet, shall be fully excavated under the direct supervision of the Designated Biologist(s) in accordance with the CDFW-approved *Covered Species Mortality Reduction and Relocation Plan* (Condition of Approval 7.4). Burrows outside of the Permittee's access do not have to be excavated. Live individuals of the Covered Species which are found shall be relocated by the Designated Biologist in accordance with the CDFW-approved *Covered Species Mortality Reduction and Relocation Plan*. Excavation shall occur no more than 14 days after the completion of the Pre-Activity Clearance Surveys described in Condition of Approval 8.1 above.
- 8.4. Covered Species Exclusion Fencing. To prevent Covered Species from becoming entrapped in or migrating into active Work Areas and the Project Area, permanent exclusion fencing shall be installed around the perimeter of applicable Work Areas and the processing plant/operations area prior to ground-disturbing activities within each. Permittee shall install exclusion fencing only in the particular Work Area where Covered Activities are planned to occur in the immediate future. For example, fencing shall not be installed simultaneously at all Work Areas. Covered Species exclusion fencing shall be installed after surveying, flagging, and excavating in accordance with Conditions of Approval 8.1, 8.2, and 8.3 above. The fencing material and design shall be summarized in a fencing plan that will be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed no later than 48 hours after the burrow excavation/Covered Species relocation work is completed. The Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. When small mammal burrows outside the cleared area cannot be avoided by a 50-foot no-disturbance buffer, they shall be excavated as described in Condition of Approval 8.3 above prior to commencing fence installation. If exclusion fence is not erected at a Work Area that is located in whole or in part within 562 meters of known or potential breeding habitat, all Covered Activities shall cease when a 70 percent or greater chance of rainfall is predicted within 72 hours in accordance with Condition of Approval 8.10 below.
- 8.5. Covered Species Exclusion Fence Installation. The Designated Biologist(s) shall accompany the exclusion fence construction crew to ensure that Covered Species are not killed or injured during fence installation. The exclusion fence

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shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the Covered Activities in the Work Area being fenced. Permittee shall check the exclusion fence at least once weekly and maintain/repair the fence when necessary.

- 8.6. Passive Exclusion of Subsequent Mine Phases. Mine Phases 2 through 6 will not be developed and/or quarried immediately (see Table 1). Phased passive relocation may be proposed as an alternative to burrow excavation and active relocation (see Condition of Approval 8.3) in areas of Phases 2 through 6 not slated for immediate development. Phased passive exclusion shall occur only with express written authorization from CDFW. Permittee's plans to trap-out these portions of the Project Area will be outlined in, and conducted in accordance with the CDFW-approved *Species Mortality Reduction and Relocation Plan* required by Condition of Approval 7.4, as well as the Project's fencing plan required by Condition of Approval 8.4.
- 8.7. Covered Species Observations. During all Covered Activities, all workers shall inform the Designated Biologist(s) if a Covered Species is observed within or near the Project Area. All work in the vicinity of the observed Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Project Area of its own accord or the Designated Biologist(s) can relocate the Covered Species following the CDFW-approved *Covered Species Mortality Reduction and Relocation Plan* specified in Condition of Approval 7.4 above.
- 8.8. Covered Species Record of Observations and Handling. All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the Covered Species; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 7.8. This information should also be included in the Quarterly Compliance and Annual Status Reports.
- 8.9. Dry Season Work. Ground-disturbing activities within or immediately adjacent (within 250 feet) to the on-site potential Covered Species breeding habitat shall not occur until the pools are dry, unless surveys are conducted to demonstrate the absence of Covered Species eggs or larvae in these pools.
- 8.10. Rain Forecast. The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 50 percent

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or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, topsoil and overburden removal, grading, compacting, blasting, and excavation) has yet to occur until no further rain is forecast. Work may continue 24 hours after the rain ceases and there is no precipitation in the 72-hour forecast. If work must continue when rain is forecast, a Designated Biologist shall survey each Work Area footprint before ground disturbance begins each day that rain is forecast to capture and relocate any Covered Species that are discovered during the surveys. Work Areas that have already been previously disturbed within the active portions of the mine may continue Covered Activities during rainfall events.

- 8.11. Night Work. Permittee shall strictly prohibit any work that may occur beginning 30 minutes before sunset and ending 30 minutes after sunrise when a 50 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast.
- 8.12. Soil Stockpiles. Permittee shall ensure that soil stockpiles are placed where soil will not pass into the potential Covered Species breeding habitat at the Project Area, or into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.
- 8.13. Fieldwork Code of Practice. To ensure that disease is not conveyed between work areas by the Designated Biologist(s) or Designated Monitor(s), the Fieldwork Code of Practice developed by the Declining Amphibian Populations Task Force (see Attachment 2) shall be followed at all times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.
- 8.14. Open Excavations. Worker(s) shall inspect all open holes, sumps, and trenches within the Work Area at the beginning, middle, and end of each day (including weekends and any other non-work days) for trapped Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the worker(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze

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under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. Worker(s) shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist(s) shall capture and relocate the Covered Species as per the *Covered Species Mortality Reduction and Relocation Plan* required in Condition of Approval 7.4 above.

- 8.15. Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Work Area, the Designated Biologist(s) shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved *Covered Species Mortality Reduction and Relocation Plan* required in Condition of Approval 7.4.
- 8.16. Covered Species Injury. If a Covered Species is injured as a result of Covered Activities, the Designated Biologist(s) shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility that routinely evaluates and treats amphibians. As required in Condition of Approval 7.4, Permittee shall identify the facility prior to the start of Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. Notification to CDFW shall be via telephone or e-mail, followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was treated. Covered Species observations should also be reported to CNDDDB in accordance with Conditions of Approval 7.8 and 8.8, above.
- 8.17. Herbicide Use. Permittee shall ensure that all herbicide use (mixing, application, and clean-up) is done by a licensed applicator in accordance with all applicable state, federal, and local regulations. Permittee shall only apply herbicide sprays

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via ground application when wind speed measures less than 3 miles per hour. Permittee shall ensure that great care is taken to avoid herbicide outside the boundaries of the Project Area. All herbicide sprays utilized within the Project Area adjacent to the on-site Exclusion Area shall contain a dye to prevent overspray.

- 8.18. Avoid Introduction of Herbicides into Waters. Permittee shall ensure herbicide mixing occurs within the Project Area where there is no potential of a spill reaching waters at the on-site Exclusion Area or off-site. Permittee shall ensure that any herbicide used where there is the possibility that the herbicide could come into direct contact with water is approved for use in an aquatic environment.

9. Habitat Management Land Acquisition:

CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, CDFW's estimate of the acreage required to provide for adequate compensation, the existence of a severed mineral right covering a portion of the proposed mitigation site, and the duration Habitat Management (HM) lands will be permanently protected and managed prior to impacts associated with Project Phases 2-6. Protection and management of HM lands prior to Project Phases 2-6 allow opportunities to refine management techniques and adaptively manage the HM lands to benefit the Covered Species for years, and in some cases decades, before Project impacts occur in these phases.

To meet this requirement, the Permittee proposes to provide for both the permanent protection and perpetual management of 765 acres adjoining the Project site, pursuant to Conditions of Approval 9.2 and 9.3, below. This 765-acre property is commonly referred to as the Fenston Property, and is owned in fee title by the Permittee. This property is fenced, exists as non-native grassland/vernal pool habitat immediately west and southwest of the Project site, is comprised of high quality grassland refugia surrounding known Covered Species breeding habitat, and represents superior functional quality habitat relative to the habitat being permanently impacted by the Project. CDFW considers the 765-acre Fenston Property high quality upland habitat, superior to that constituting the 348-acre Project Area, due the relatively high burrow density compared to the burrow density at the Project Area. In September 2016 and on behalf of the Permittee, ESR, Inc. surveyed burrow densities at both the Project Area and the Fenston Property. ESR, Inc., found fewer than one (0.93) burrow opening per acre at the Project Area and almost seven (6.6) burrow openings per acre

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at the Fenston Property (Figure 4). Further, the Fenston Property contains significant breeding habitat and the perpetual management of the Fenston Property will include management of predators (e.g., bullfrogs) of the Covered Species. The mineral rights for a portion of the Fenston Property are severed from the surface rights and are not owned by the Permittee (Figure 5). However, remoteness opinions have been prepared which conclude that development of mineral resources on the Fenston Property are so remote as to be considered negligible. Prior to CDFW conceptually approving the Fenston Property, CDFW shall review applicable biological information, conduct a site visit, and review the information submitted as described in Conditions of Approval 9.2.2 and 9.2.3.

Permanent protection and funding for perpetual management of all 765 acres of the Fenston Property will be completed before starting any Covered Activities or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10, below.

9.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$10,300.00/acre for 765 acres: **\$7,879,500.00**. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
- 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.5 below, estimated at **\$402,076.35** (\$525.59/acre);
- 9.1.3. Interim management period funding as described in Condition of Approval 9.2.6 below, estimated in 2018 at **\$348,564.60** (\$455.64/acre);
- 9.1.4. Long-term management funding as described in Condition of Approval 9.3 below, estimated at \$2,605.80/acre for 765 acres: **\$1,993,437.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
- 9.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related

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title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW, estimated at **\$12,000**.

9.2. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:

- 9.2.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);
- 9.2.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 3A) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 9.2.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3B). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

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- 9.2.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.
- 9.2.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <http://www.dfg.ca.gov/habcon/conplan/mitbank/>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 9.2.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, species monitoring, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

- 9.3. Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.2.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.

- 9.3.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with

a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;

9.3.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

9.3.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.

9.3.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

9.3.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

9.3.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.

9.3.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

9.3.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW

approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

9.4. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

9.5. Provisions to Address Severed Mineral Title. To safeguard for the potential exercise of severed mineral rights on the Fenston Property, and to ensure the acquisition, perpetual protection, and management of HM lands, the Permittee shall:

9.5.1. Replace HM lands. If any of the 765 acres of HM lands is ever legally disturbed based on a previously existing severed mineral right on the Fenston Property, the Permittee shall replace the impacted land at a 1:1 ratio (Replacement HM lands), at some off-site location or through purchase of Covered Species credits from a CDFW-approved mitigation or conservation bank (for the same resource values). Replacement HM lands shall be acquired within two years of disturbance resulting from the severed mineral right. Replacement of HM lands should take into account that, due to the high habitat value for the Covered Species at Fenston Ranch, the Permittee was only required to preserve 750 acres of HM lands to offset the Project's impacts. Therefore, a surplus of 15 acres of HM lands will be protected at Fenston. Should exercise of severed mineral rights occur on the Project's HM lands, the first 15 acres of disturbance shall be deemed compensated by the existing 15-acre surplus mitigation.

9.5.2. Demonstrate Biological Equivalency of Replacement HM Lands. The biological value of disturbed HM lands and the Replacement HM lands shall be determined based on a report prepared by a qualified biological consultant ("Biological Equivalency Report"). The Biological Equivalency Report shall: (1) Consider aerial photographs, prior biological studies covering the disturbed HM lands, and other relevant

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evidence to determine the biological value of the disturbed area; (2) Identify and describe biological resources contained within the disturbed HM lands by habitat type; and (3) State, based on evidence, whether the proposed Replacement HM lands are biologically equivalent to the disturbed HM lands. The Biological Equivalency Report shall be submitted to CDFW for review and written approval.

- 9.5.3. Source Replacement HM Lands. Replacement HM lands can be either acquired from off-site areas or from a CDFW-approved mitigation or conservation bank. If Permittee acquires off-site lands (i.e., not a mitigation bank), upon approval of the Biological Equivalency Report, Permittee shall within one year record a perpetual conservation easement over the proposed Replacement HM lands and supply an additional endowment amount (if necessary).
- 9.5.4. Bond for Value of Replacement HM Lands. Following any disturbance of the HM lands as a result of the mineral reservation, Permittee shall submit a bond for the fair market value of any biological resources contained within the disturbed lands, as calculated by a qualified appraiser. The value of the bond shall also include an additional \$10,000 to cover potential transactions costs associated with acquiring substitute land. The bond shall be rescinded upon completion and CDFW's written approval of the Biological Equivalency Report and once either of the following occurs: recordation of the conservation easement over Replacement HM lands; or certificate of purchase of the equivalent habitat credits from a CDFW approved conservation or mitigation bank. In the event that the HM lands are disturbed by the owner of a previously existing mineral reservation, and the Permittee does not provide Replacement HM lands within two (2) years of that disturbance, CDFW will redeem the value of the bond in order to acquire replacement conservation lands.
- 9.5.5. Apply All Other Conditions of Approval. Conditions of Approval 9.1 through 9.4, above, shall also apply to Replacement HM lands sourced off-site.

10. Performance Security:

The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

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- 10.1. Security Amount. The Security shall be in the amount of **\$10,635,577.95**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 10.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
 - Written documentation of the acquisition of the HM lands;
 - Copies of all executed and recorded conservation easements;
 - Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
 - Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to

ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

Amendment:

This ITP may be amended as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable law. This ITP may be amended without the concurrence of the Permittee as required by law, including if CDFW determines that continued implementation of the Project as authorized under this ITP would jeopardize the continued existence of the Covered Species or where Project changes or changed biological conditions necessitate an ITP amendment to ensure that all Project-related impacts of the taking to the Covered Species are minimized and fully mitigated.

Stop-Work Order:

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

Compliance with Other Laws:

This ITP sets forth CDFW's requirements for the Permittee to implement the Project pursuant to CESA. This ITP does not necessarily create an entitlement to proceed with the Project. Permittee is responsible for complying with all other applicable federal, state, and local law.

Notices:

The Permittee shall deliver a fully executed duplicate original ITP by registered first class mail or overnight delivery to the following address:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, California 94244-2090

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall

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reference the Project name, Permittee, and ITP Number (2081-2016-051-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Julie A. Vance, Regional Manager
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4014
Fax (559) 243-4026

and a copy to:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, California 94244-2090

Unless Permittee is notified otherwise, CDFW's Regional Representative for purposes of addressing issues that arise during implementation of this ITP is:

Jim Vang
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4014, extension 254
Fax (559) 243-4020

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, County of Madera. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Austin Quarry Project Final Environmental Impact Report (EIR), (SCH No.: 2010071036) dated June 2016. The County of Madera certified the EIR for the Austin Quarry Project on 19 July 2016. At the time the lead agency certified the final EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's EIR for the

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CALMAT COMPANY DBA VULCAN
MATERIALS COMPANY, WEST REGION
AUSTIN QUARRY PROJECT

Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

Findings Pursuant to CESA:

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. (Fish & G. Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds, (a)-(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application, Austin Quarry Project Final Environmental Impact Report, the results of consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent un-phased habitat protection of 765 acres of HM land for the benefit of the Covered Species; (2) establishment of avoidance zones; (3) worker education; (4) mortality reduction measures, and (5) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, CDFW's estimate of the acreage required to provide for adequate compensation, and the duration HM lands will be permanently protected and managed prior to impacts associated Project Phases 2 through 6. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 765 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;

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- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.


Attachments:

FIGURE 1	Project Vicinity Map
FIGURE 2	Project Site Map
FIGURE 3	Aggregate Mine Phases Map
FIGURE 4	CA Ground Squirrel Populations September 2016
FIGURE 5	Fenston Ranch Mineral Reservation Map
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice
ATTACHMENT 3A, 3B	Proposed Lands for Acquisition Form; Habitat Management Lands Checklist
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

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CALMAT COMPANY DBA VULCAN
MATERIALS COMPANY, WEST REGION
AUSTIN QUARRY PROJECT

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 9/25/18


Julie A. Vance, Regional Manager
REGION 4 CENTRAL

ACKNOWLEDGMENT

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of this ITP, and (3) agrees on behalf of the Permittee to comply with all terms and conditions

By: KEVIN TORELL Date: 10/9/18

Printed Name: KEVIN TORELL Title: AREA PERMITTING MANAGER

Incidental Take Permit
No. 2081-2016-051-04
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MATERIALS COMPANY, WEST REGION
AUSTIN QUARRY PROJECT

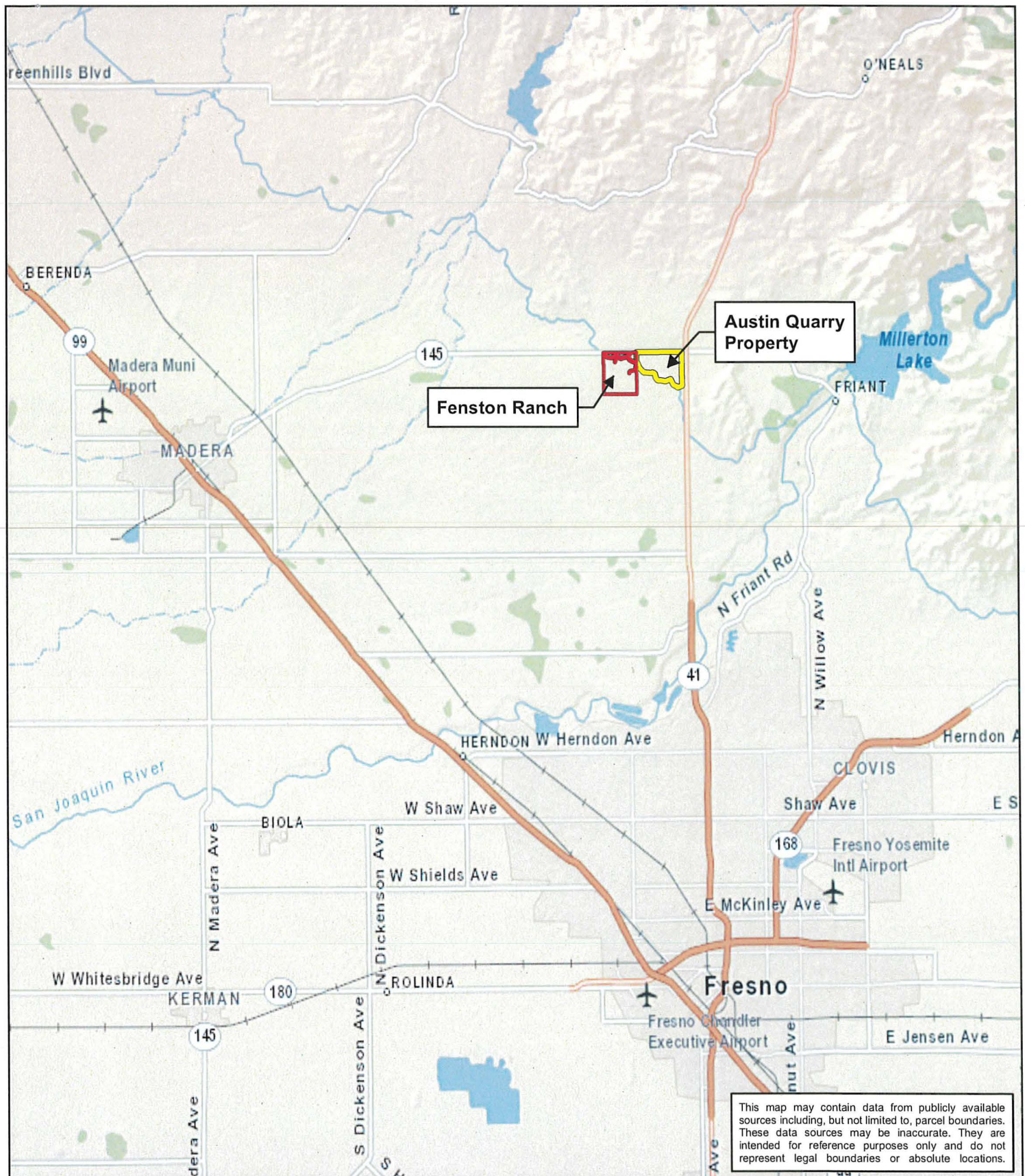


Figure 1. Project Vicinity Map

Austin Quarry Project
California Incidental Take Permit
Madera County, California



0 1 2 4
Miles

Map Prepared Date: 6/25/2018
Map Prepared By: SGillespie
Base Source: Esri Streaming - Street Map
Data Source(s): WRA

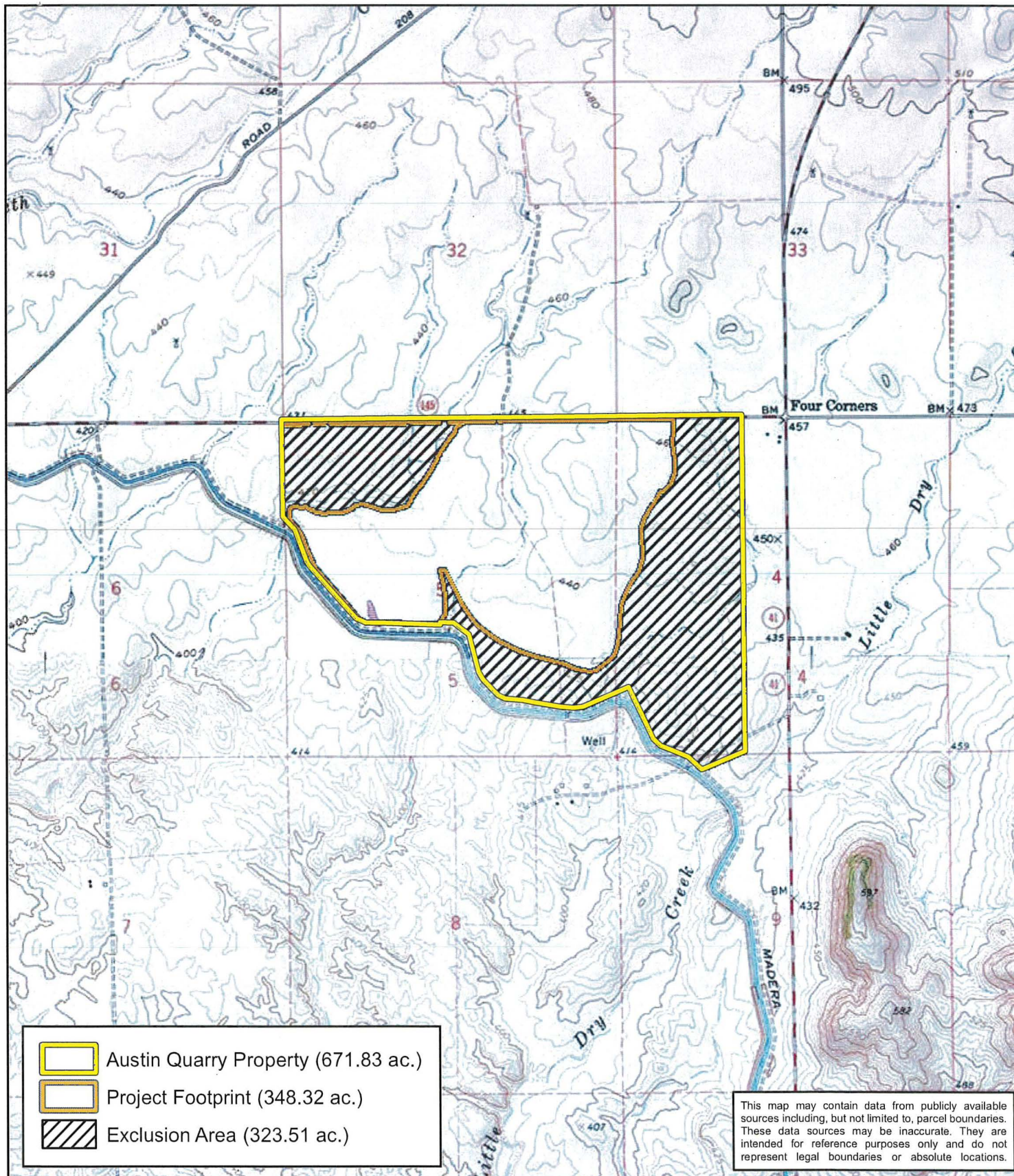


Figure 2. Project Site Map

Austin Quarry Project
California Incidental Take Permit
Madera County, California



0 1,500 3,000 Feet

Map Prepared Date: 7/3/2018
Map Prepared By: smortensen
Base Source: Esri Streaming - US Topo Maps
Data Source(s): WRA

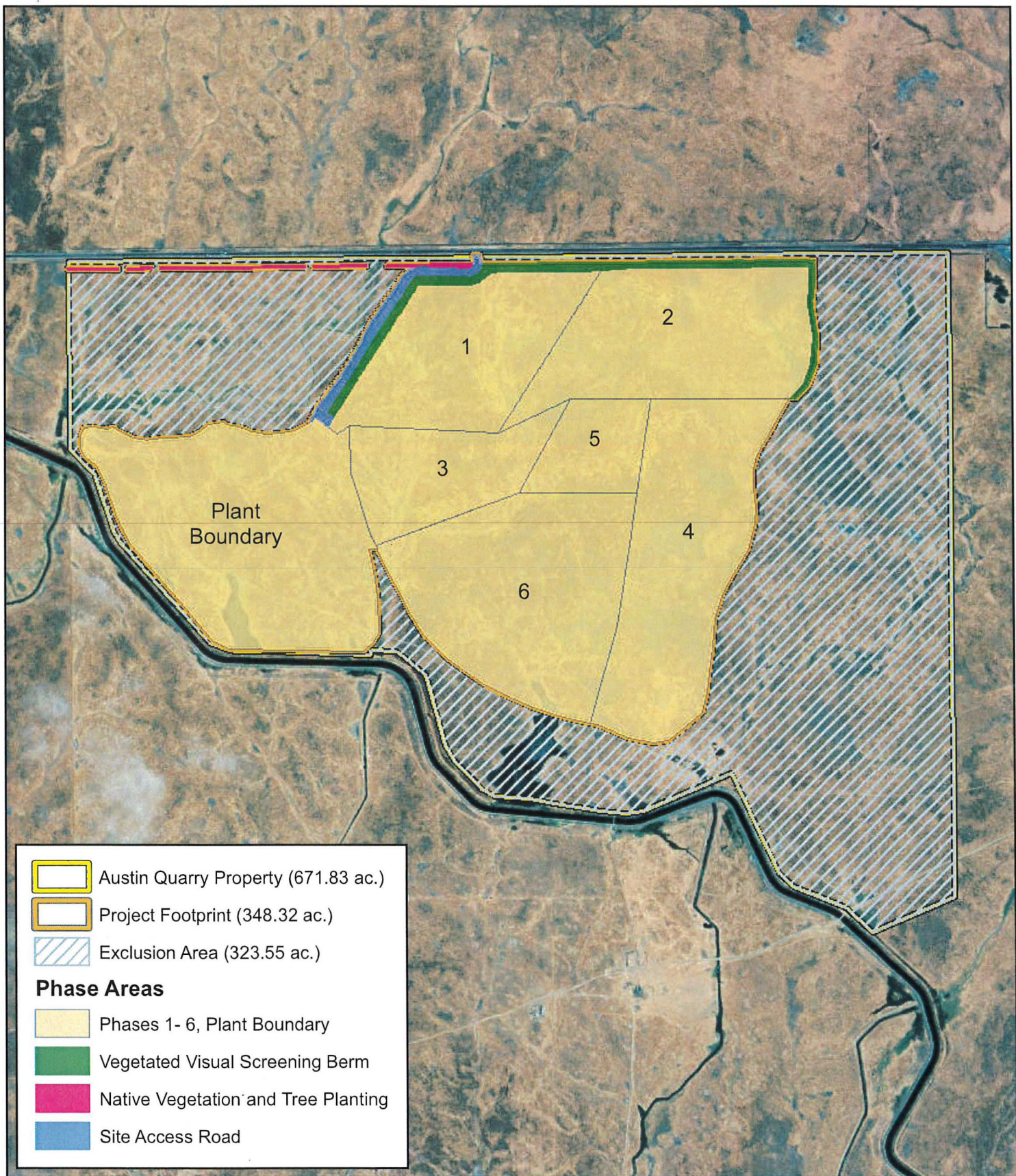
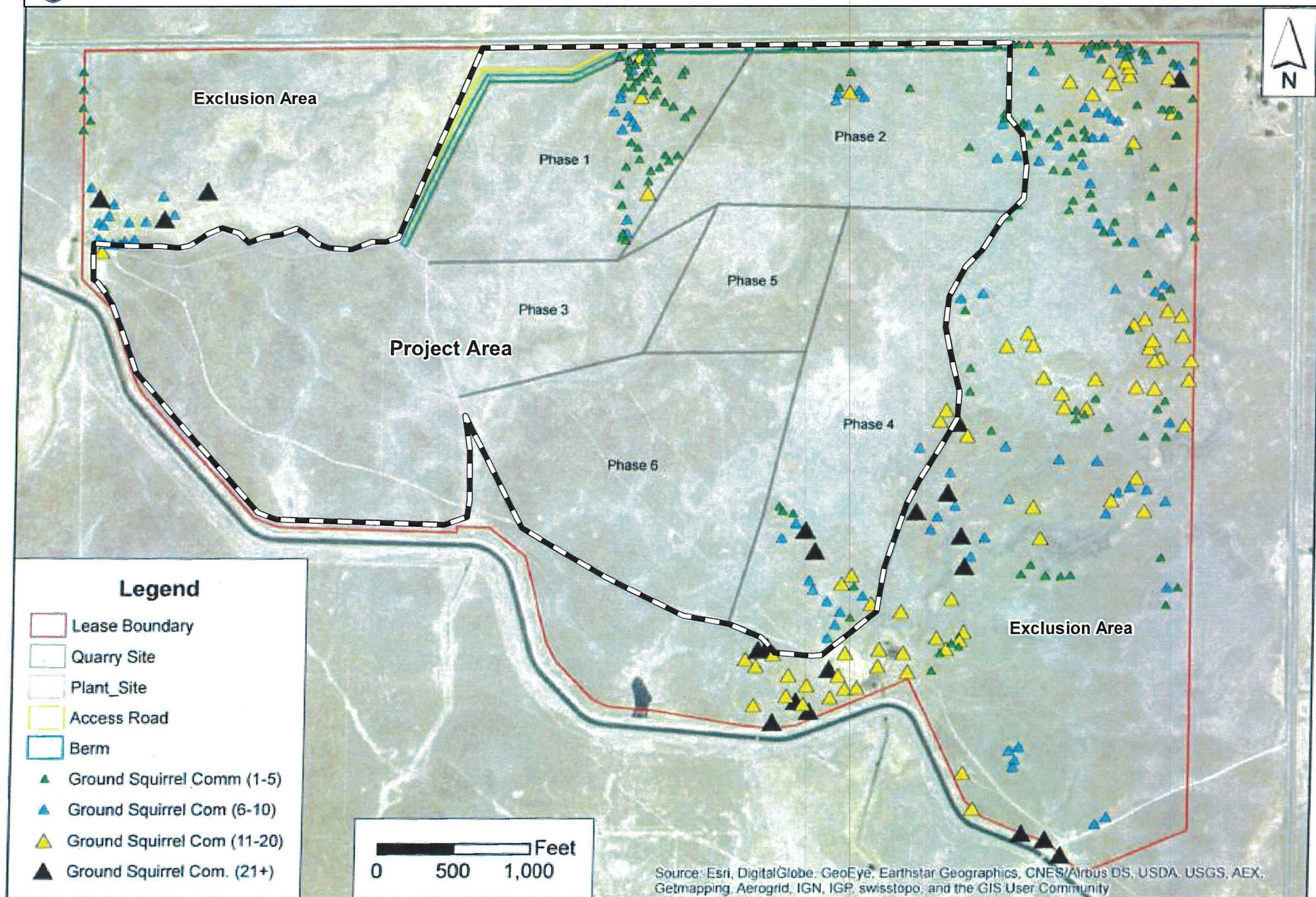


Figure 3. Aggregate Mine Phases Map

Austin Quarry Project
California Incidental Take Permit
Madera County, California



Figure 4



Austin Quarry

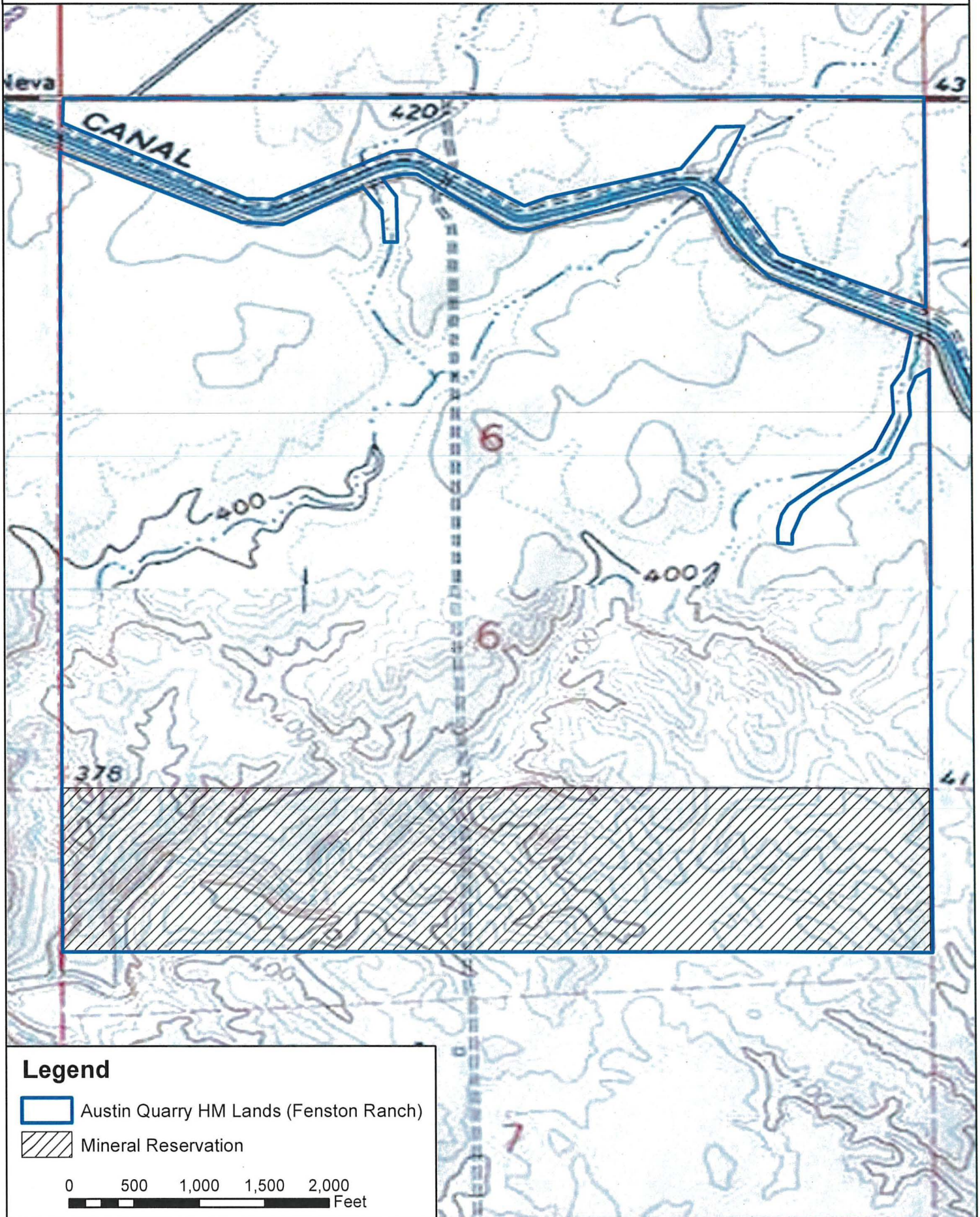
CA Ground Squirrel Populations September 2016

Survey completed by ESR, Inc.
on September 26 - 27, 2016





MINERAL RESERVATION MAP

Figure 5



Legend

-  Austin Quarry HM Lands (Fenston Ranch)
-  Mineral Reservation

0 500 1,000 1,500 2,000 Feet

Attachment 1

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) CALIFORNIA ENDANGERED SPECIES ACT

INCIDENTAL TAKE PERMIT NO. 2081-2016-051-04

PERMITTEE: CalMat Company dba
Vulcan Materials Company, West Region

PROJECT: Austin Quarry Project

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the Department of Fish and Wildlife (CDFW) for the above-referenced Project are properly implemented, and thereby to ensure compliance with section 2081(b) of the Fish and Game Code and section 21081.6 of the Public Resources Code. A table summarizing the mitigation measures required by CDFW is attached. This table is a tool for use in monitoring and reporting on implementation of mitigation measures, but the descriptions in the table do not supersede the mitigation measures set forth in the California Incidental Take Permit (ITP) and in attachments to the ITP, and the omission of a permit requirement from the attached table does not relieve the Permittee of the obligation to ensure the requirement is performed.

OBLIGATIONS OF PERMITTEE

Mitigation measures must be implemented within the time periods indicated in the table that appears below. Permittee has the primary responsibility for monitoring compliance with all mitigation measures and for reporting to CDFW on the progress in implementing those measures. These monitoring and reporting requirements are set forth in the ITP itself and are summarized at the front of the attached table.

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

CDFW may, at its sole discretion, verify compliance with any mitigation measure or independently assess the effectiveness of any mitigation measure.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Source, Implementation Schedule, Responsible Party, and Status/Date/Initials. The Mitigation Measure column summarizes the mitigation requirements of the ITP. The Source column identifies the ITP condition that sets forth the mitigation measure. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure. The Status/Date/Initials column shall be completed by the Permittee during preparation of each Status Report and the Final Mitigation Report, and must identify the implementation status of each mitigation measure, the date that status was determined, and the initials of the person determining the status.

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	<u>Designated Representative.</u> Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<u>Designated Biologist.</u> Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting, and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed. The Designated Biologist(s) may be assisted by approved biologists identified as Biological Monitors that do not meet the qualifications to be a Designated Biologist. Biological Monitors and their activities shall be approved in advance and in writing by CDFW. No agreement/contract between the Permittee, its contractors, and/or the Designated Biologist shall prohibit open communication with CDFW.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
3	<u>Education Program.</u> Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	<u>Trash Abatement.</u> Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
5	<u>Dust Control</u> . Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	<u>Delineation of the Project Area of the Project Site</u> . Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the 348-acre Project Area to distinguish it from the approximately 324-acre on-site Exclusion Area (representing the balance of the Project site). The boundary of the Project Area shall be delineated with stakes and/or flags and shall be maintained with signage for the life of the Project.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	<u>Delineation of Work Area Boundaries</u> . Before starting Covered Activities at each phase of development, the Permittee shall clearly delineate the boundaries of the active Work Area where the Covered Activities will occur for that development phase with fencing, stakes, or flags. A Work Area is defined as the discrete zone(s) within the Project Site where Covered Activities will actively occur for that development phase. Permittee shall restrict all Covered Activities during that development phase to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that Work Area.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	<u>Notification Before Commencement</u> . The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities at each phase and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
9	<u>Covered Species Mortality Reduction and Relocation Plan</u> . Prior to initiating Covered Activities, the Designated Biologist(s) shall prepare, and submit to CDFW for written approval, a Covered Species Mortality Reduction and Relocation Plan. The Covered Species Mortality Reduction and Relocation Plan shall include, but not be limited to; a discussion of the survey, excavation method, capture, handling, and relocation methods; a protocol for the conditional passive exclusion (trapping out) of the Covered Species over the deferred mine phases; identification of where the salvaged individuals will be relocated to; and identification of a wildlife rehabilitation center or veterinary facility where injured individuals of the Covered Species will be taken. The Covered Species Mortality Reduction and Relocation Plan must indicate that only the approved Designated Biologist(s) is/are authorized to capture and handle individuals of the Covered Species.	ITP Condition # 7.4	Before commencing ground- or vegetation-disturbing activities	Permittee / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
10	<u>Pre-Activity Clearance Surveys and Reporting.</u> Prior to initiating Covered Activities in each phase, the Designated Biologist shall survey that portion of the Project Area, where those Covered Activities will be initiated, for individuals of the Covered Species. These surveys shall provide 100 percent visual coverage of the area, including burrow openings in each phase and a 50-foot buffer zone around each phase. If individuals of the Covered Species are found, the Designated Biologist(s) shall relocate them from the Project Area in accordance with the CDFW-approved <i>Covered Species Mortality Reduction and Relocation Plan</i> (Condition of Approval 7.4). The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities within each phase.	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee / Designated Biologist	
11	<u>Flag Burrows.</u> During the Pre-Activity Clearance Surveys (Condition of Approval 8.1), the Designated Biologist shall flag all small mammal burrows which could potentially harbor individuals of the Covered Species. Those flagged burrows which occur within 562 meters of known or potential breeding habitat and which cannot be avoided by 50 feet shall be fully excavated in accordance with Condition of Approval 8.3.	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee / Designated Biologist	
12	<u>Small Mammal Burrow Excavation.</u> All small mammal burrows identified and flagged per Conditions of Approval 8.1 and 8.2 and within 562 meters of known or potential Covered Species breeding habitat and that cannot be avoided by 50 feet, shall be fully excavated under the direct supervision of the Designated Biologist(s) in accordance with the CDFW-approved <i>Covered Species Mortality Reduction and Relocation Plan</i> (Condition of Approval 7.4). Burrows outside of the Permittee's access do not have to be excavated. Live individuals of the Covered Species which are found shall be relocated by the Designated Biologist in accordance with the CDFW-approved <i>Covered Species Mortality Reduction and Relocation Plan</i> . Excavation shall occur no more than 14 days after the completion of the Pre-Activity Clearance Surveys described in Condition of Approval 8.1.	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee / Designated Biologist	
13	<u>Covered Species Exclusion Fencing.</u> To prevent Covered Species from becoming entrapped in or migrating into active Work Areas and the Project Area, permanent exclusion fencing shall be installed around the perimeter of applicable Work Areas and the processing plant/operations area prior to ground-disturbing activities within each. Permittee shall install exclusion fencing only in the particular Work Area where Covered Activities are planned to occur in the immediate future. For example, fencing shall not be installed simultaneously at all Work Areas. Covered Species exclusion fencing shall be installed after surveying, flagging, and excavating in accordance with Conditions of Approval 8.1, 8.2, and 8.3. The fencing material and design shall be summarized in a fencing plan that will be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed no later than 48 hours after the burrow excavation/Covered Species relocation work is completed. The Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. When small mammal burrows outside the cleared area cannot be avoided by a 50-foot no-disturbance buffer, they shall be excavated as described in Condition of Approval 8.3 prior to commencing fence installation. If exclusion fence is not erected at a Work Area that is located in whole or in part within 562 meters of known or potential breeding habitat, all Covered Activities shall cease when a 70 percent or greater chance of rainfall is predicted within 72 hours in accordance with Condition of Approval 8.10.	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	<u>Covered Species Exclusion Fence Installation</u> . The Designated Biologist(s) shall accompany the exclusion fence construction crew to ensure that Covered Species are not killed or injured during fence installation. The exclusion fence shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the Covered Activities in the Work Area being fenced. Permittee shall check the exclusion fence at least once weekly and maintain/repair the fence when necessary.	ITP Condition # 8.5	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee / Designated Biologist	
15	<u>Passive Exclusion of Subsequent Mine Phases</u> . Mine Phases 2 through 6 will not be developed and/or quarried immediately (see Table 1 of ITP). Phased passive relocation may be proposed as an alternative to burrow excavation and active relocation (see Condition of Approval 8.3) in areas of Phases 2 through 6 not slated for immediate development. Phased passive exclusion shall occur only with express written authorization from CDFW. Permittee's plans to trap-out these portions of the Project Area will be outlined in and conducted in accordance with the CDFW-approved <i>Species Mortality Reduction and Relocation Plan</i> required by Condition of Approval 7.4, as well as the Project's fencing plan required by Condition of Approval 8.4.	ITP Condition # 8.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee / Designated Biologist	
16	<u>Dry Season Work</u> . Ground-disturbing activities within or immediately adjacent (within 250 feet) to the on-site potential Covered Species breeding habitat shall not occur until the pools are dry, unless surveys are conducted to demonstrate the absence of Covered Species eggs or larvae in these pools.	ITP Condition # 8.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
17	<u>Fieldwork Code of Practice</u> . To ensure that disease is not conveyed between work areas by the Designated Biologist(s) or Designated Monitors(s), the Fieldwork Code of Practice developed by the Declining Amphibian Populations Task Force (see Attachment 2) shall be followed at all times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 8.13	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee / Designated Biologist	
18	<u>Equipment Inspection</u> . Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Work Area, the Designated Biologist(s) shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved <i>Covered Species Mortality Reduction and Relocation Plan</i> required in Condition of Approval 7.4.	ITP Condition # 8.15	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<p><u>Habitat Management Land Acquisition.</u> CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, CDFW's estimate of the acreage required to provide for adequate compensation, the existence of a severed mineral right covering a portion of the proposed mitigation site, and the duration Habitat Management (HM) lands will be permanently protected and managed prior to impacts associated with Project Phases 2-6. Protection and management of HM lands prior to Project Phases 2-6 allow opportunities to refine management techniques and adaptively manage the HM lands to benefit the Covered Species for years, and in some cases decades, before Project impacts occur in these phases.</p> <p>To meet this requirement, the Permittee proposes to provide for both the permanent protection and perpetual management of 765 acres adjoining the Project site, pursuant to Conditions of Approval 9.2 and 9.3. This 765-acre property is commonly referred to as the Fenston Property, and is owned in fee title by the Permittee. This property is fenced, exists as non-native grassland/vernal pool habitat immediately west and southwest of the Project site, is comprised of high quality grassland refugia surrounding known Covered Species breeding habitat, and represents superior functional quality habitat relative to the habitat being permanently impacted by the Project. CDFW considers the 765-acre Fenston Property high quality upland habitat, superior to that constituting the 348-acre Project Area, due the relatively high burrow density compared to the burrow density at the Project Area. In September 2016 and on behalf of the Permittee, ESR, Inc. surveyed burrow densities at both the Project Area and the Fenston Property. ESR, Inc., found fewer than one (0.93) burrow opening per acre at the Project Area and almost seven (6.6) burrow openings per acre at the Fenston Property (Figure 4). Further, the Fenston Property contains significant breeding habitat and the perpetual management of the Fenston Property will include management of predators (e.g., bullfrogs) of the Covered Species. The mineral rights for a portion of the Fenston Property are severed from the surface rights and are not owned by the Permittee (Figure 5). However, remoteness opinions have been prepared which conclude that development of mineral resources on the Fenston Property are so remote as to be considered negligible. Prior to CDFW conceptually approving the Fenston Property, CDFW shall review applicable biological information, conduct a site visit, and review the information submitted as described in Conditions of Approval 9.2.2 and 9.2.3.</p> <p>Permanent protection and funding for perpetual management of all 765 acres of the Fenston Property will be completed before starting any Covered Activities <u>or</u> within 18 months of the effective date of the ITP if Security is provided pursuant to Condition of Approval 10.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
20	<p><u>Cost Estimates.</u> CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:</p> <ul style="list-style-type: none"> i. Land acquisition costs for HM lands identified in Condition of Approval 9.3, estimated at \$10,300.00/acre for 765 acres: \$7,879,500.00. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements; ii. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.5, estimated at \$402,076.35 (\$525.59/acre); iii. Interim management period funding as described in Condition of Approval 9.2.6, estimated in 2018 at \$348,564.60 (\$455.64/acre); iv. Long-term management funding as described in Condition of Approval 9.3, estimated at \$2,605.80/acre for 765 acres: \$1,993,437.00. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management. v. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW, estimated at \$12,000. 	ITP Condition # 9.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	
21	<p><u>Fee Title/Conservation Easement.</u> The Permittee shall transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e).</p>	ITP Condition # 9.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	
22	<p><u>HM Lands Approval.</u> The Permittee shall obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 3A) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species.</p>	ITP Condition # 9.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	<u>HM Lands Documentation.</u> The Permittee shall provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3B). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.	ITP Condition # 9.2.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	
24	<u>Land Manager.</u> The Permittee shall designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.	ITP Condition # 9.2.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	
25	<u>Start-up Activities.</u> Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see http://www.dfg.ca.gov/habcon/conplan/mitbank/); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.	ITP Condition # 9.2.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	
26	<u>Interim Management (Initial and Capital).</u> Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, species monitoring, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition # 9.2.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
27	<p>Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.2.5. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition # 9.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	
28	<p>Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).</p>	ITP Condition # 9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	
29	<p>Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.</p>	ITP Condition # 9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
30	<u>Capitalization Rate and Fees.</u> Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.	ITP Condition # 9.3.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	
31	<u>Endowment Buffers/Assumptions.</u> Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment: <ul style="list-style-type: none"> • <u>10 Percent Contingency.</u> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. • <u>Three Years Delayed Spending.</u> The endowment shall be established assuming spending will not occur for the first three years after full funding. • <u>Non-annualized Expenses.</u> For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW. 	ITP Condition # 9.3.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	
32	<u>Transfer Long-term Endowment Funds.</u> Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified in Condition of Approval 9.3.2. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Condition # 9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	
33	<u>Reimburse CDFW.</u> Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Condition # 9.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
34	<p>Performance Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <ol style="list-style-type: none"> Security Amount. The Security shall be in the amount of \$10,635,577.95. This amount is based on the cost estimates identified in Condition of Approval 9.1. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4 of the ITP) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of the ITP. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by: <ul style="list-style-type: none"> Written documentation of the acquisition of the HM lands; Copies of all executed and recorded conservation easements; Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of the ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION ACTIVITIES					
35	<u>Compliance Monitoring.</u> The Designated Biologist shall be on-site daily when topsoil removal, overburden removal, other mass grading, or other initial ground-disturbing Covered Activities occur in each phase. For each phase, the Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and exclusion and delineating fence are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, relocation efforts, survey results, and monitoring activities required by the ITP. The Designated Biologist shall conduct compliance inspections a minimum of once quarterly within the Project Area during periods of inactivity and after initial clearing, grubbing and grading (including topsoil and overburden removal) are completed.	ITP Condition # 7.3	Entire Project	Permittee / Designated Biologist	
36	<u>Quarterly Compliance Report.</u> The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3, as well as the As-Built Plans identified in Condition of Approval 7.5, into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of the ITP and via e-mail no later than the 15 th day of every third month to CDFW's Regional Representative and Regional Office and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Representative is Jim Vang (jim.vang@wildlife.ca.gov), the Regional Office CESA Program email is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.6	Entire Project	Permittee / Designated Biologist	
37	<u>As-Built Plans.</u> Permittee shall submit as-built plans to CDFW within six (6) months of completing construction of individual Project phases. The as-built plan sheets shall delineate and quantify the extent of all facilities, infrastructure, and features associated with the Project phase. The as-built plans shall include an estimate of disturbance resulting from construction and quarrying by highlighting the disturbance areas on the as-built plan sheets. Plans shall include topographic data, with contour intervals not to exceed five feet, as a background layer. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. Plans shall be derived from engineering survey data acquired after Project construction and shall be verified by the Designated Biologist(s). The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.	ITP Condition # 7.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
38	<u>Annual Status Report</u> . Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified in Condition of Approval 7.9. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.3; (2) As-Built Plans identified in Condition of Approval 7.5, (3) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (4) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (5) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (6) all available information about Project-related incidental take of the Covered Species; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 7.7	Entire Project	Permittee	
39	<u>CNDDDB Observations</u> . The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.8	Entire Project	Permittee / Designated Biologist	
40	<u>Notification of Non-compliance</u> . The Designated Representative shall immediately notify CDFW in writing if he/she determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or the MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee / Designated Representative	
41	<u>Operation Monitoring Notebook</u> . The Designated Biologist shall maintain an operation-monitoring notebook on-site throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the operation-monitoring notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee / Designated Biologist	
42	<u>Erosion Control Materials</u> . Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material.	ITP Condition # 6.8	Entire Project	Permittee	
43	<u>Project Area Access</u> . Project-related personnel shall access the Project Area from SR 145, the dedicated route for the Project, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification. Access to the on-site Exclusion Area shall be prohibited.	ITP Condition # 6.11	Entire Project	Permittee / Designated Representative	
44	<u>Staging Areas</u> . Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the delineated Project Area unless provided for as described in Condition of Approval 6.11 of the ITP.	ITP Condition # 6.12	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
45	<u>Hazardous Waste</u> . Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall properly contain and dispose of any hazardous wastes produced within the Project Area.	ITP Condition # 6.13	Entire Project	Permittee	
46	<u>CDFW Access</u> . Permittee shall provide CDFW staff with reasonable access to the Project site and Habitat Management lands and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 6.14	Entire Project	Permittee	
47	<u>Covered Species Observations</u> . During all Covered Activities, all workers shall inform the Designated Biologist(s) if a Covered Species is observed within or near the Project Area. All work in the vicinity of the observed Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Project Area of its own accord or the Designated Biologist(s) can relocate the Covered Species following the CDFW-approved <i>Covered Species Mortality Reduction and Relocation Plan</i> specified in Condition of Approval 7.4.	ITP Condition # 8.7	Entire Project	Permittee / Designated Biologist	
48	<u>Covered Species Record of Observations and Handling</u> . All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the Covered Species; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 7.8. This information should also be included in the Quarterly Compliance and Annual Status Reports.	ITP Condition # 8.8	Entire Project	Permittee / Designated Biologist	
49	<u>Dry Season Work</u> . Ground-disturbing activities within or immediately adjacent (within 250 feet) to the on-site potential Covered Species breeding habitat shall not occur until the pools are dry, unless surveys are conducted to demonstrate the absence of Covered Species eggs or larvae in these pools.	ITP Condition # 8.9	Entire Project	Permittee	
50	<u>Rain Forecast</u> . The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 50 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, topsoil and overburden removal, grading, compacting, blasting, and excavation) has yet to occur until no further rain is forecast. Work may continue 24 hours after the rain ceases and there is no precipitation in the 72-hour forecast. If work must continue when rain is forecast, a Designated Biologist shall survey each Work Area footprint before ground disturbance begins each day that rain is forecast to capture and relocate any Covered Species that are discovered during the surveys. Work Areas that have already been previously disturbed within the active portions of the mine may continue Covered Activities during rainfall events.	ITP Condition # 8.10	Entire Project	Permittee / Designated Biologist	
51	<u>Night Work</u> . Permittee shall strictly prohibit any work that may occur beginning 30 minutes before sunset and ending 30 minutes after sunrise when a 50 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast.	ITP Condition # 8.11	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
52	<u>Soil Stockpiles.</u> Permittee shall ensure that soil stockpiles are placed where soil will not pass into the potential Covered Species breeding habitat at the Project Area, or into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.	ITP Condition # 8.12	Entire Project	Permittee	
53	<u>Fieldwork Code of Practice.</u> To ensure that disease is not conveyed between work areas by the Designated Biologist(s) or Designated Monitors(s), the Fieldwork Code of Practice developed by the Declining Amphibian Populations Task Force (see Attachment 2) shall be followed at all times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 8.13	Entire Project	Permittee / Designated Biologist / Designated Monitor	
54	<u>Open Excavations.</u> Worker(s) shall inspect all open holes, sumps, and trenches within the Work Area at the beginning, middle, and end of each day (including weekends and any other non-work days) for trapped Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the worker(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. Worker(s) shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist(s) shall capture and relocate the Covered Species as per the <i>Covered Species Mortality Reduction and Relocation Plan</i> required in Condition of Approval 7.4.	ITP Condition # 8.14	Entire Project	Permittee / Designated Biologist	
55	<u>Equipment Inspection.</u> Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Work Area, the Designated Biologist(s) shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.4.	ITP Condition # 8.15	Entire Project	Permittee / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
56	<u>Covered Species Injury</u> . If a Covered Species is injured as a result of Covered Activities, the Designated Biologist(s) shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility that routinely evaluates and treats amphibians. As required in Condition of Approval 7.4, Permittee shall identify the facility prior to the start of Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. Notification to CDFW shall be via telephone or e-mail, followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was treated. Covered Species observations should also be reported to CNDDb in accordance with Conditions of Approval 7.8 and 8.8.	ITP Condition # 8.16	Entire Project	Permittee / Designated Biologist	
57	<u>Herbicide Use</u> . Permittee shall ensure that all herbicide use (mixing, application, and clean-up) is done by a licensed applicator in accordance with all applicable state, federal, and local regulations. Permittee shall only apply herbicide sprays via ground application when wind speed measures less than 3 miles per hour. Permittee shall ensure that great care is taken to avoid herbicide outside the boundaries of the Project Area. All herbicide sprays utilized within the Project Area adjacent to the on-site Exclusion Area shall contain a dye to prevent overspray.	ITP Condition # 8.17	Entire Project	Permittee	
58	<u>Avoid Introduction of Herbicides into Waters</u> . Permittee shall ensure herbicide mixing occurs within the Project Area where there is no potential of a spill reaching waters at the on-site Exclusion Area or off-site. Permittee shall ensure that any herbicide used where there is the possibility that the herbicide could come into direct contact with water is approved for use in an aquatic environment.	ITP Condition # 8.18	Entire Project	Permittee	
59	<u>Notification of Take or Injury</u> . Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4014. The initial notification to CDFW shall include information regarding the location, species, number of animals taken or injured, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two (2) calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition # 7.10	Entire Project	Permittee	
60	<u>Designated Biologist and Biological Monitor Authority</u> . To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist(s) and Biological Monitor(s) shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure(s) to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Entire Project	CDFW	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
POST-CONSTRUCTION					
61	<u>Refuse Removal.</u> Upon completion of Covered Activities in each Work Area, Permittee shall remove from each Work Area and properly dispose of all temporary fill, stockpiled mined materials, and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.15	Post-construction	Permittee	
62	<u>As-Built Plans.</u> Permittee shall submit as-built plans to CDFW within six (6) months of completing construction of individual Project phases. The as-built plan sheets shall delineate and quantify the extent of all facilities, infrastructure, and features associated with the Project phase. The as-built plans shall include an estimate of disturbance resulting from construction and quarrying by highlighting the disturbance areas on the as-built plan sheets. Plans shall include topographic data, with contour intervals not to exceed five feet, as a background layer. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. Plans shall be derived from engineering survey data acquired after Project construction and shall be verified by the Designated Biologist(s). The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.	ITP Condition # 7.5	Post-construction of each Project phase		
63	<u>Final Mitigation Report.</u> The Permittee shall provide CDFW with a Final Mitigation Report no later than 45 days after the expiration of the ITP. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project-related impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 7.9	Post-construction and after completion of mitigation	Permittee	
PROVISIONS TO ADDRESS SEVERED MINERAL TITLE					
64	<p><u>Provisions to Address Severed Mineral Title.</u> To safeguard for the potential exercise of severed mineral rights on the Fenston Property, and to ensure the acquisition, perpetual protection, and management of HM lands, the Permittee shall:</p> <p>a) <u>Replace HM lands.</u> If any of the 765 acres of HM lands is ever legally disturbed based on a previously existing severed mineral right on the Fenston Property, the Permittee shall replace the impacted land at a 1:1 ratio (Replacement HM lands), at some off-site location or through purchase of Covered Species credits from a CDFW-approved mitigation or conservation bank (for the same resource values). Replacement HM lands shall be acquired within two years of disturbance resulting from the severed mineral right. Replacement of HM lands should take into account that, due to the high habitat value for the Covered Species at Fenston Ranch, the Permittee was only required to preserve 750 acres of HM lands to offset the Project's impacts. Therefore, a surplus of 15 acres of HM lands will be protected at Fenston. Should exercise of severed mineral rights occur on the Project's HM lands, the first 15 acres of disturbance shall be deemed compensated by the existing 15-acre surplus mitigation.</p>	ITP Condition # 9.5	In the event severed mineral right is exercised	Permittee	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p>b) <u>Demonstrate Biological Equivalency of Replacement HM Lands. The biological value of disturbed HM lands and the Replacement HM lands shall be determined based on a report prepared by a qualified biological consultant ("Biological Equivalency Report"). The Biological Equivalency Report shall: (1) Consider aerial photographs, prior biological studies covering the disturbed HM lands, and other relevant evidence to determine the biological value of the disturbed area; (2) Identify and describe biological resources contained within the disturbed HM lands by habitat type; and (3) State, based on evidence, whether the proposed Replacement HM lands are biologically equivalent to the disturbed HM lands. The Biological Equivalency Report shall be submitted to CDFW for review and written approval.</u></p> <p>c) <u>Source Replacement HM Lands. Replacement HM lands can be either acquired from off-site areas or from a CDFW-approved mitigation or conservation bank. If Permittee acquires off-site lands (i.e., not a mitigation bank), upon approval of the Biological Equivalency Report, Permittee shall within one year record a perpetual conservation easement over the proposed Replacement HM lands and supply an additional endowment amount (if necessary).</u></p> <p>d) <u>Bond for Value of Replacement HM Lands. Following any disturbance of the HM lands as a result of the mineral reservation, Permittee shall submit a bond for the fair market value of any biological resources contained within the disturbed lands, as calculated by a qualified appraiser. The value of the bond shall also include an additional \$10,000 to cover potential transactions costs associated with acquiring substitute land. The bond shall be rescinded upon completion and CDFW's written approval of the Biological Equivalency Report and once either of the following occurs: recordation of the conservation easement over Replacement HM lands; or certificate of purchase of the equivalent habitat credits from a CDFW approved conservation or mitigation bank. In the event that the HM lands are disturbed by the owner of a previously existing mineral reservation, and the Permittee does not provide Replacement HM lands within two (2) years of that disturbance, CDFW will redeem the value of the bond in order to acquire replacement conservation lands.</u></p> <p>e) <u>Apply All Other Conditions of Approval. Conditions of Approval 9.1 through 9.4 of the ITP shall also apply to Replacement HM lands sourced off-site.</u></p>				

The Declining Amphibian Task Force Fieldwork Code of Practice

A code of practice, prepared by the Declining Amphibian Task Force (DAPTF) to provide guidelines for use by anyone conducting field work at amphibian breeding sites or in other aquatic habitats. Observations of diseased and parasite-infected amphibians are now being frequently reported from sites all over the world. This has given rise to concerns that releasing amphibians following a period of captivity, during which time they can pick up unapparent infections of novel disease agents, may cause an increased risk of mortality in wild populations. Amphibian pathogens and parasites can also be carried in a variety of ways between habitats on the hands, footwear, or equipment of fieldworkers, which can spread them to novel localities containing species which have had little or no prior contact with such pathogens or parasites. Such occurrences may be implicated in some instances where amphibian populations have declined. Therefore, it is vitally important for those involved in amphibian research (and other wetland/pond studies including those on fish, invertebrates and plants) to take steps to minimize the spread of disease and parasites between study sites.

1. Remove mud, snails, algae, and other debris from nets, traps, boots, vehicle tires and all other surfaces. Rinse cleaned items with sterilized (e.g. boiled or treated) water before leaving each study site.
2. Boots, nets, traps, etc., should then be scrubbed with 70% ethanol solution (or sodium hypochlorite 3 to 6%) and rinsed clean with sterilized water between study sites. Avoid cleaning equipment in the immediate vicinity of a pond or wetland.
3. In remote locations, clean all equipment as described above upon return to the lab or "base camp". Elsewhere, when washing machine facilities are available, remove nets from poles and wash with bleach on a "delicates" cycle, contained in a protective mesh laundry bag.
4. When working at sites with known or suspected disease problems, or when sampling populations of rare or isolated species, wear disposable gloves and change them between handling each animal. 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.
5. When amphibians are collected, ensure the separation of animals from different sites and take great care to avoid indirect contact between them (e.g. via handling, reuse of containers) or with other captive animals. Isolation from un-sterilized plants or soils which have been taken from other sites is also essential. Always use disinfected/disposable husbandry equipment.
6. Examine collected amphibians for the presence of diseases and parasites soon after capture. Prior to their release or the release of any progeny, amphibians should be quarantined for a period and thoroughly screened for the presence of any potential disease agents.
7. Used cleaning materials (liquids, etc.) should be disposed of safely and if necessary taken back to the lab for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.



ATTACHMENT 3A

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

Applicant proposes that the following parcel(s) of land be considered for approval by the California Department of Fish and Wildlife as suitable for purposes of habitat management lands to compensate the adverse environmental impacts of the Project:

<u>Section(s)</u>	<u>Township</u>	<u>Range</u>	<u>County</u>	<u>Acres</u>
-------------------	-----------------	--------------	---------------	--------------

_____	_____	_____	_____	_____
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Current Legal Owner(s), of the surface and mineral estates, include Assessor's Parcel Number(s):

General Description of Location of Parcel(s):

Land Value: \$

For Region Use Only

APPROVED _____ By: _____ DATE: _____

Regional Manager's Signature

REJECTED _____

Region: _____

Explanation: _____

ATTACHMENT 3B
DEPARTMENT OF FISH AND WILDLIFE
HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS

The following checklist is provided to inform you of what documents are necessary to expedite the Department of Fish and Wildlife (CDFW) processing of your Habitat Management Land acquisition proposal. Any land acquisition processing requests which are incomplete when received, will be returned. The Region contact will review and approve the document package and forward it to the Habitat Conservation Planning Branch Senior Land Agent with a request to process the land acquisition for formal acceptance.

To: _____
Regional Manager, Region Name

From: _____
Project Applicant

Phone: _____

Tracking #: _____
CDFW assigned permit or agreement #

Project Name: _____

Enclosed is the complete package for the ☐ Conservation Easement OR ☐ Grant Deed

Documents in this package include:

☐ Fully executed, approved as to form Conservation Easement Deed or Grant Deed with legal description stamped by a licensed surveyor. Date executed: _____

☐ Proposed Lands for Acquisition Form (PLFAF)

☐ Phase I Environmental Site Assessment Report Date on report: _____
(An existing report may be used, but it must be less than two years old.)

☐ Preliminary Title Report(s) for subject property is enclosed and has been reviewed for Encumbrances, including severed mineral estates, and other easements. The title report must be less than six months old when final processing is conducted.

Included are additional documents:

☐ document(s) to support title exceptions

☐ document(s) to explain title encumbrances

☐ a plot or map of easements/encumbrances on the property

☐ Policy of Title Insurance (an existing title policy is not acceptable)

☐ County Assessor Parcel Map(s) for subject property

☐ Site Location Map (Site location with property boundaries outline on a USGS 1:24,000 scale topo)

☐ Final Permit or Agreement (or other appropriate instrument)

Type of agreement: ☐ Bank Agreement ☐ Mitigation Agreement

☐ Permit _____ Other: _____
(write in type of permit)

☐ Final Management Plan (if required prior to finalizing permit or agreement or if this package is for a Grant Deed)

☐ Biological Resources Report

☐ Draft Summary of Transactions ☐ hard copy ☐ electronic copy (both are required)

IRREVOCABLE STANDBY LETTER OF CREDIT
NO. [**Number issued by financial institution**]

Issue Date: [**date**]

Beneficiary:

Department of Fish and Wildlife
Post Office Box 944209
Sacramento, CA 94244-2090
Attn: HCPB Mitigation Account Coordinator

Amount: U.S. \$[**dollar number**] [(**dollar amount**)]

Expiry: [**Date**] at our counters

Dear Sirs:

1. At the request and on the instruction of our customer, [**name of applicant**] ("Applicant"), we, [**Name of financial institution**] ("Issuer"), hereby establish in favor of the beneficiary, the California Department of Fish and Wildlife ("CDFW"), this irrevocable standby letter of credit ("Credit") in the principal sum of U.S. \$[**dollar number**] [(**dollar amount**)] ("Principal Sum").
2. We are informed this Credit is and has been established for the benefit of the CDFW pursuant to the terms of the incidental take permit for the [**name of project**] issued by the CDFW to the Applicant on [**date**] (No. [**number**]) ("Permit").
3. We are further informed that pursuant to the Permit, the Applicant has agreed to complete certain mitigation requirements, as set forth in Conditions [**numbers**] in the Permit ("Mitigation Requirements").
4. We are finally informed that this Credit is intended by the CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. The CDFW shall be entitled to draw upon this Credit only by presentation of a duly executed Certificate for Drawing ("Certificate") in the same form as Attachment A, which is attached hereto, at our office located at [**name and address of financial institution**].
6. The Certificate shall be completed and signed by an "Authorized Representative" of the CDFW as defined in paragraph 12 below. Presentation by the CDFW of a

completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.

7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to the CDFW, or to the account of the CDFW, in immediately available funds, as the CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give the CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, the CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to the CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of the CDFW, as defined in paragraph 12 below.
12. An "Authorized Representative" shall mean either the Director of the Department of Fish and Wildlife, the General Counsel of the Department of Fish and Wildlife, or a Regional Manager of the Department of Fish and Wildlife.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify the CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at [**name and address of financial institution**], specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for the CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 1416 Ninth Street, 12th Floor, Sacramento, California 95814-2090 Attn: HCPB Mitigation Account Coordinator; and (ii) for the Applicant: [**name and address of applicant**].
15. This Credit may not be transferred.

16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the Uniform Commercial Code, Article 5 of the State of California.
17. This Credit shall, if not canceled, expire on [**expiration date**], or any extended expiration date.
18. We hereby agree with the CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.
19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[Name of financial institution]

By: _____

Name: _____

Title: _____

ATTACHMENT A

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [*Number issued by financial institution*]
CERTIFICATE FOR DRAWING

To:

[*Name and address of financial institution*]

Re: Incidental Take Permit No. [*permit number*]

The undersigned, a duly Authorized Representative of the Department of Fish and Wildlife ("CDFW"), as defined in paragraph 12 in the above-referenced Irrevocable Standby Letter of Credit ("Credit"), hereby certifies to the Issuer that:

1. [*Insert one of the following statements:* "In the opinion of the CDFW, the Applicant has failed to complete the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "As set forth in paragraph 13, the Issuer has informed the CDFW that the Credit will not be extended and the Applicant has not provided the CDFW with an equivalent security approved by the CDFW to replace the Credit."]
2. The undersigned is authorized under the terms of the Credit to present this Certificate as the sole means of demanding payment on the Credit.
3. The CDFW is therefore making a drawing under the Credit in amount of U.S. \$ _____.
4. The amount demanded does not exceed the Principal Sum of the Credit.

Therefore, the CDFW has executed and delivered this Certificate as of the ____ day of _____, _____.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

[*Insert one of the following:* "DIRECTOR" **or** "GENERAL COUNSEL" **or** "REGIONAL MANAGER, [*NAME OF REGIONAL OFFICE*"]]

ATTACHMENT B

IRREVOCABLE LETTER OF CREDIT NO. [***Number issued by financial institution***]
CERTIFICATE FOR CANCELLATION

To:

[***Name of financial institution and address***]

Re: Incidental Take Permit No. [***permit number***]

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in the paragraph 12 in the above-referenced Irrevocable Standby Letter of Credit ("Credit"), hereby certifies to the Issuer that:

1. [***Insert one of the following statements:*** "The Applicant has presented documentary evidence of full compliance with the Mitigation Requirements referenced in paragraph 3 of the Credit." ***or*** "The natural expiration of this Credit has occurred."]
2. The CDFW therefore requests the cancellation of the Credit.

Therefore, the CDFW has executed and delivered this Certificate for Cancellation as of the ____ day of _____, _____.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

[***Insert one of the following:*** "DIRECTOR" ***or*** "GENERAL COUNSEL" ***or*** "REGIONAL MANAGER, [***NAME OF REGIONAL OFFICE***"]

Attachment 5

State of California - Department of Fish and Wildlife
MITIGATION PAYMENT TRANSMITTAL FORM
 DFW 1057 (NEW 07/28/17)

Project Applicant Instructions: Please fill out and attach this form to payment. For conservation banks, also attach the Bill(s) of Sale for credits sold. One form may be used for multiple transactions, **BUT YOU MUST USE A SEPARATE FORM FOR EACH CHECK YOU TRANSMIT.** Make sure to include Project Name, Project Tracking Number, and ASB Mitigation Tracking Number (if available) on the attached payment type.

1. DATE: _____ TO: _____ Regional Manager _____ Region Office Address	2. FROM: _____ Name _____ Mailing Address _____ City, State, Zip _____ Telephone Number/FAX Number
3. RE: _____ Project Name as appears on permit/agreement	

4. AGREEMENT/ACCOUNT INFORMATION: (check the applicable type)

☐ 2081 Permit
 ☐ Conservation Bank
 ☐ 2835 NCCP
 ☐ 1802 Agreement
 ☐ 1600 Agreement
 ☐ Other _____

Project Tracking Number

5. PAYMENT TYPE (One check per form only): The following funds are being remitted in connection with the above referenced project:

Check information:

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

a. Endowment: for Long-Term Management Subtotal \$ _____

b. Habitat Enhancement Subtotal \$ _____

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ _____

2. Letter of Credit Subtotal \$ _____

1. Financial Institution: _____

2. Letter of Credit Number: _____

3. Date of Expiration: _____

ACCOUNTING OFFICE USE ONLY	
Description	FI\$Cal Coding
Speedchart (Project, Program, Reference, Fund)	
Reporting Structure	
Category	
Date Established: _____ By: _____	