



State of California – The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

EDMUND G. BROWN JR., Governor
CHARLTON H. BONHAM, Director



October 12, 2018

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WATER RESOURCES

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HABITAT CONSERVATION
PLANNING BRANCH

Mr. Yanming Zhang
101 W. Jack London Boulevard
Livermore, CA 94551

Dear Mr. Zhang:

Subject: Incidental Take Permit for Dalton Reservoir Replacement Project, 2081-2017-066-03,
Alameda County

Enclosed you will find two originals of the Incidental Take Permit for the above referenced project, which have been signed by the California Department of Fish and Wildlife (CDFW). Please read the permit carefully, sign the acknowledgement on both copies of the permit, and return one original no later than 30 days from CDFW signature and prior to initiation of ground-disturbing activities to:

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

You are advised to keep the other original signature permit in a secure location and distribute copies to appropriate project staff responsible for ensuring compliance with the conditions of the permit. Note that you are required to comply with certain conditions of approval prior to initiation of ground-disturbing activities. Additionally, a copy of the permit must be maintained at the project work site and made available for inspection by CDFW staff when requested.

The permit will not take effect until the signed acknowledgment is received by CDFW. If you wish to discuss these instructions or have questions regarding the permit, please contact Ms. Marcia Grefsrud, Environmental Scientist, at (707) 644-2812 or Marcia.Grefsrud@wildlife.ca.gov; or Ms. Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 944-5541.

Sincerely,

Gregg Erickson
Regional Manager
Bay Delta Region

Enclosures

cc: California Department of Fish and Wildlife
Ryan Mathis – Habitat Conservation Planning Branch, Sacramento
Craig Weightman – Bay Delta Region, Napa
Brenda Blinn – Bay Delta Region, Napa
Marcia Grefsrud – Bay Delta Region, Napa

Conserving California's Wildlife Since 1870



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California Department of Fish and Wildlife
Bay Delta Region
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534

California Endangered Species Act
Incidental Take Permit No. 2081-2017-066-03

DALTON RESERVOIR REPLACEMENT 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:	City of Livermore
Principal Officer:	Cheri Sheets, City Engineer
Contact Person:	Yanming Zhang, (925) 960-8179
Mailing Address:	1052 South Livermore Avenue Livermore, CA 94550

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 **December 31, 2022**.

Notwithstanding the expiration date on the take authorization provided by this ITP, 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 6.8 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"].)

²The 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:

The Dalton Reservoir Replacement (Project) is located approximately 1,400 feet west of North Vasco Road and about 1,000 feet northeast of the eastern terminus of Raymond Road, in the northeast portion of the City of Livermore (City), Alameda County (See Figure 1). The Project is located approximately 1.6 miles north of Interstate 580 at approximately 37°43'55.02"N, 121°43'46.94"W. The Project site is mostly developed with a 26-foot-tall, 2.0-million gallon steel reservoir that sits within a 1.4-acre chain link fenced area (Figure 2). A paved access road that is approximately 1,600 feet in length and 12 feet wide winds up to the existing tank from the intersection of Ames Street and Raymond Road. Along the entire length of one side of the access road is an approximately 5- to 7-foot-wide area that has been previously disturbed for placement of underground conduits, which currently consists of fill material. The Permittee utilizes portions of the area inside the fence for stockpiling materials and debris removed from other Permittee-owned properties. The fenced area and access road are surrounded mostly by grazed grassland and planted trees.

Project Description:

The Project includes removal of the existing 2.0-million gallon tank and construction of a 3.41-million gallon, 40-foot-high (roof height), 155-foot-diameter welded steel replacement reservoir on substantially the same footprint as the existing tank. The new tank will have a wider diameter than the existing tank and will extend into the area currently used for the paved circular access road surrounding the existing tank, which will require a new 15-foot-wide paved access road to be constructed surrounding the new tank. This new asphalt road around the tank is part of the Project, along with landscaping, electrical and instrumentation upgrades, and piping improvements. The existing perimeter chain-link fencing will remain.

The majority of the work will occur inside the perimeter fence line, where the tank currently sits. In addition, the Project includes removal and replacement of the conduit using trenching. The new conduit will be routed in the shoulder of the access road for the entire length of the access road and will not disturb the undeveloped area surrounding the site.

The existing tank will be dismantled and disposed of off-site. Site drainage from within the new paved areas will be collected and treated in four new bio-retention ponds before leaving the site through the existing overflow/drain pipe that discharges at the bottom of the hill. Site drainage outside of the new paved areas will remain similar to the existing drainage. Minor grading work will be required to accommodate the wider footprint of the tank and paved areas. Geotechnical improvements underneath the base of the tank to depths of approximately 4 feet will be required to support the tank.

A number of large eucalyptus trees will be removed to construct the Project and new native trees will be planted to visually screen the new reservoir.

Construction Access and Staging Area

Access to the reservoir is via a 12-foot wide paved road that sits within a 25-foot wide City permanent easement. The fenced reservoir site sits within land owned by the City. Both the permanent easement boundary and the fenced reservoir site will be cleared of any obstacles or debris. Removal or trimming of eucalyptus trees and grubbing around the perimeter of the fenced reservoir site will be required. Vegetation removal is expected to be minimal because most of the construction access route consists of sparse, non-native ruderal vegetation that generally lacks woody vegetation and a paved access road is already in place around the existing reservoir.

All topsoil removed during vegetation clearing will be stockpiled separately from trench excavation spoils.

The Project will include removal and replacement of the existing electrical conduit routed along the northern shoulder of the access road using trenching. Trenching will entail excavating a 3-foot wide by 4-foot deep trench using a bucket wheel ditcher or a backhoe. The new conduit will be routed in the shoulder of the access road for the entire length of the access road (1,600 feet) and will not disturb the undeveloped area surrounding the site.

The top 6 inches of soil from the trench line will be removed and piled separately from the excavated subsoil. The excavated subsoil and topsoil will be placed on one side of the 25-foot construction limits of work and used for backfilling the trench after the conduit is installed.

Once the conduit has been installed in the trench, the subsoil and topsoil will be replaced, ensuring that the surface is returned to its original grade and the compaction density will be the same as the surrounding soil. Outside clean fill (e.g., sand or aggregate base) will be brought in to provide the initial 1.83 feet of backfill around the pipe. Native material will be used to backfill above the pipe to grade. Excess material will be disposed of at an appropriate off-site facility.

The surface of the Right of Way will be restored by removing any construction debris and grading to original grade and contour.

Heavy construction equipment may include dozers, scrapers, water trucks, excavators, backhoes, compactors, rollers, paving machines, concrete mix trucks, cranes for steel panel lifting, welding equipment, boom trucks, and forklifts.

Project activities include grubbing and grading of the entire Project site, trench digging, augering, road construction, tree removal, tree planting, and other activities.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. 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:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include grubbing and grading of the entire Project site, trench digging, augering, road construction, tree removal, tree planting, and other activities (Covered Activities).

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

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as vehicle and heavy equipment use, excavation, grading, exportation and importation of fill during Project construction and felling and skidding of trees. Individuals of the Covered Species dispersing onto the Project site from offsite localities during seasonal movements to and from breeding ponds will be susceptible to injury or mortality from desiccation, predation, being trapped in artificial structures, crushed under vehicular or foot traffic or other construction activities. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from capture and relocation. The areas where authorized take of the Covered Species is expected to occur include: the entire Project site and access area (collectively, the Project Area).

The Project is expected to cause the permanent loss of 0.23 acres of habitat for the Covered Species, and temporary loss of 0.53 acres of 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: stress resulting from noise, vibrations, capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

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 vehicular 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. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration and Initial Study (SCH No.: 2017072014) adopted by the City of Livermore on August 13, 2018 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Programmatic Biological Opinion for U.S. Army Corps of Engineers

(Corps) Permitted Projects Utilizing the East Alameda County Conservation Strategy that May Affect Federally Listed Species in East Alameda County, California (Corps File Number 2011-00230S) (No.08ESMFOO-2012-F-0092-1) as appended, 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.

- 4. 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.

5. General Provisions:

- 5.1. 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.
- 5.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of biological monitors (collectively, 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.
- 5.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. The Designated Biologist shall contact the CDFW representative immediately regarding non-compliance issues. The Designated Biologist shall have the authority to consult with the CDFW representative directly.
- 5.3.1. Permittee shall accommodate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP due to a conflict with Project construction, then the Designated Biologist shall notify the CDFW representative immediately.
- 5.4. 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.

- 5.5. Construction Monitoring Binder. The Designated Biologist shall maintain a construction-monitoring notebook and binder 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 construction-monitoring binder is available for review at the Project site upon request by CDFW.
- 5.6. 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. Plastic water bottles and plastic bags shall be picked up and removed daily.
- 5.7. 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.
- 5.8. Erosion Control. All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Permittee shall utilize erosion control measures throughout all phases of Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. No phase of the Project that may cause the introduction of sediments into a drainage, stream, or pond may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to startup of any phase of the Project that may result in sediment runoff to the stream. The Designated Biologist(s) shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately.
- 5.9. 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, in potential Covered Species' habitat.
- 5.10. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the

fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.

- 5.11. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 5.12. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat (grassland or aquatic) outside of or en route to the Project Area. No overland access is allowed. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines access outside of the Project Area is necessary, 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.

Temporary Impacts and Restoration

- 5.13. Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the temporary impact; and (2) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (see Condition of Approval 8.6).
- 5.14. Temporary Impact Restoration Schedule. Prior to initiating any temporary impacts, Permittee shall ensure that a Temporary Impact Restoration Schedule has been developed that ensures: (1) recontouring and seeding of temporary impact areas shall occur prior to October 31 of each year where the impacts occur; and (2) all temporary impacts from prior years have met the October 31 recontouring and seeding criteria and have achieved vegetation success as described in the Vegetation Restoration Plan (See Condition of Approval 8.6).

Invasive Species

- 5.15. Invasive Plant Species Control- Baseline. Permittee shall ensure that pre-Project baseline conditions are established for documenting type, location and general abundance of invasive plant species within the Project Area. These baseline conditions will be used for post-construction monitoring of restored areas (see Condition 6.18). The Designated Biologist(s) qualified to do botanical surveys and approved by CDFW shall submit the sampling methodology to CDFW at least 30 days prior to conducting baseline surveys. The baseline survey shall include both a qualitative (windshield and pedestrian) and quantitative assessment of target species within the Project Area.

Permittee shall ensure that baseline sampling at control transects is conducted prior to the start of Project construction activities. Sampling shall be conducted during the appropriate season for detecting invasive plant species, and shall be based on an appropriate number

monitoring plots (treatment and control sets) approved by CDFW. The Designated Biologist(s) shall conduct sampling for target invasive plant species ranked by the Cal-IPC's Inventory as High or Moderate (<http://www.cal-ipc.org/paf/>).

- 5.16. Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: <http://www.cal-ipc.org/ip/prevention/index.php> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <http://www.protectyourwaters.net/>.
- 5.17. Invasive Plant Species Control Plan. Permittee shall prepare an Invasive Plant Species Control Plan (Invasive Plant Plan) to effectively control and monitor invasive plants within Covered Species habitat that will be temporarily disturbed and subsequently restored. The Invasive Plant Plan shall include the results of baseline surveys (see Condition 5.15). Permittee shall submit the Invasive Plant Plan to CDFW for approval within 30 days prior to the start of restoration activities. The Designated Biologist shall oversee the management of invasives within the Project Area and may use control methods such as hand removal, mechanical removal and/or focused herbicide application within seeding and planting areas following vegetation restoration. The Designated Biologist shall ensure that invasive plant removal does not result in damage to adjacent Covered Species habitat or to root systems of installed plants. Herbicides may be used if hand or mechanical removal of invasives is unsuccessful or infeasible. Herbicides shall not be used within or near aquatic habitat, and shall only be applied by an applicator holding a valid license issued by the California Department of Pesticide Regulation.

Construction

- 5.18. Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. The construction schedule shall identify the approximate beginning and completion date of each phase of the Project (such as decommissioning, restoration, etc.) and for each Project activity within those phases. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven (7) days prior to the change being implemented.
- 5.19. Emergency Response Plan. Before the onset of work, Permittee shall prepare an Emergency Response Plan describing actions that will be taken in case of a fire or other natural disaster or in case of a human-generated disaster, such as a spill or release of hazardous materials. An emergency phone tree, including contact information for all appropriate disaster management agencies and natural resources agencies, shall be included in the plan and should be posted on-site in a visible location. The Emergency Response Plan shall specify containment procedures for hazardous substances, with emphasis on avoidance of the aquatic features at the Project site.

- 5.20. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.21. 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 exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.22. 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 outside of the marked work areas.
- 5.23. Artificial Lighting. To the maximum extent feasible, Permittee shall ensure that night-time work is avoided. If night-time work cannot be avoided, it will be limited in extent, duration, and brightness to the maximum extent feasible. No earthmoving activities or overland travel shall take place during night-time work. All night-time work and construction-related traffic shall be suspended during rain events. Lighting shall be faced downward and shall only be utilized in the immediate workspace. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.
- 5.24. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and Project site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.
- 5.25. Wildfire Prevention. If the Project site is within a high or very high Fire Hazard Severity Zone (refer to <http://frap.fire.ca.gov/projects/hazard/fhz.html>) or the risk of fire danger is high based on 7-day predictions from National Oceanic and Atmospheric Administration forecasts, Permittee shall mow access pathways, staging areas and work areas before allowing heavy equipment and vehicles to access the site. Non-living vegetative debris shall be cleared from around the immediate work footprint, and basic fire suppression supplies shall be kept on-site at all times. Disking and/or tilling are not permitted for fire prevention without prior written permission from CDFW.
- 5.26. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill, tank pieces, 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.

6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.

- 6.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it 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.
- 6.3. Compliance Monitoring. The Designated Biologist(s) shall be on-site full-time daily when Covered Activities occur. The Designated Biologist(s) 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 fencing 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 other wildlife species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections at a minimum of once per week during periods of inactivity, or daily as long as exclusion fencing is in place.
- 6.4. Photo Monitoring. No less than five photo monitoring stations shall be established to provide representative views of Project decommissioning, construction, restoration and reclamation activities. Photo monitoring station results shall contribute to the assessment of temporary impacts and restoration work by CDFW; therefore, Permittee should ensure that photo monitoring stations numbers and locations are sufficient to document temporary impacts and restoration success. Photo monitoring shall be done as follows:
- 6.4.1. Stations should be located in areas that allow for unobstructed views and a field of vision of approximately 2,000 feet.
- 6.4.2. At least one photograph shall be taken at all stations prior to ground-breaking activities, and each month thereafter until construction and initial restoration is complete. Photo documentation of restoration success shall occur every three months following initial restoration until restoration success criteria are reached.
- 6.4.3. Photo monitoring station locations shall be provided to CDFW in a geographic format with the coordinate system identified.
- 6.4.4. If CDFW or the Designated Biologist(s) determines that additional monitoring stations are necessary, the locations shall be added to the inventory of photo monitoring stations.
- 6.4.5. During each photo monitoring cycle, all stations shall be visited within two days.
- 6.5. Monthly Compliance Report. During Covered Activities and for the first six months following completion of restoration activities, the Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.2, 6.3 and 6.4 into a Monthly 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.

Monthly Compliance Reports shall detail approximate Project impacts in acres, separated into permanent and temporary impacts. Temporary impacts shall be categorized as defined in Condition of Approval 5.13. The temporary impacts category shall: (1) identify and describe the temporary impacts to date; (2) describe the location, acres, and type of restoration actions that have occurred; and (3) include all monitoring information required by the Vegetation Restoration Plan (see Condition of Approval 8.6).

Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative by the 5th working day of the following month. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (Marcia.Grefsrud@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.

- 6.6. 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 Monthly Compliance Reports for that year identified in Condition of Approval 6.5; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 6.7. CNDDDB Observations. The Designated Biologist shall notify the CDFW Representative daily when a Covered Species is seen or taken. 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 Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. The Designated Biologist shall provide the GPS coordinates and photos of the observation to CDFW email at Marcia.Grefsrud@wildlife.ca.gov within 24 hours of the observation.
- 6.8. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly 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 this ITP's Conditions of

Approval in minimizing and fully mitigating Project 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.

- 6.9. 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 email at Marcia.Grefsrud@wildlife.ca.gov and (707) 644-2812 (direct line of CDFW Regional Representative). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two 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.

6.9.1. California tiger salamander. If the Covered Species is found recently deceased, a ½-inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to CDFW Bay Delta Region, Attention Marcia Grefsrud, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534. The remaining carcasses shall be delivered to the CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road Suite D, Rancho Cordova, CA 95670 within two calendar days of the discovery.

7. 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 Covered Species:

- 7.1. Vehicle Speed Limit. Permittee, Designated Biologist(s) and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 15 miles per hour when traveling through the Project area.
- 7.2. Inspection of Pipes and Culverts. All construction pipes, culverts, or similar structures with a diameter of 2 inches or greater that are stored in the Project Area for one or more overnight periods shall be either securely capped prior to storage or thoroughly inspected by the Designated Biologist(s) and/or the construction foreman/manager for the Covered Species or other animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a Covered Species is found, it shall be relocated as described in Condition of Approval 7.19.
- 7.3. Open Trenches. To prevent inadvertent entrapment of California tiger salamander during construction, the Designated Biologist shall check all excavated open holes, sumps and trenches for California tiger salamander no later than 0900 each day for trapped animals. If a

California tiger salamander is trapped in these features, the Designated Biologist shall remove and relocate the animal(s) to a safe location within suitable habitat (see Condition of Approval 7.19) prior to the start of work activities at that site. At the close of each working day, the Designated Biologist shall ensure all excavated, steep-walled holes or trenches more than 6 inches deep are provided with one or more escape ramps constructed of earthen fill or wooden planks with a slope of 3:1 (run: rise). Before Permittee fills trenches or holes, the Designated Biologist shall thoroughly inspect them for trapped California tiger salamander. If at any time a trapped California tiger salamander is discovered by the Designated Biologist or any work crew member, the Designated Biologist shall move the animal to a safe nearby location.

- 7.4. Auguring and Excavation. The Designated Biologist shall survey all auguring and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.
- 7.5. Inspection of Refuge Habitat. All potential refuge features (e.g. debris piles), created as a result of the Project shall be inspected by the Designated Biologist for the Covered Species prior to removal. The Designated Biologist shall inspect the debris piles for the Covered Species as the debris is being loaded to trucks.
- 7.6. Use of Rodenticide and Poison. At no time during the life of the Project shall rodenticides or other poisons used in the control of burrowing animals be used by Permittee in the Project Area or within mitigation lands.
- 7.7. Covered Species Handling and Injury. If an injured Covered Species is found during the Project term, the Designated Biologist shall evaluate the individual and immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the Designated Biologist shall place the injured individual in a safe and shaded location. Any injured California tiger salamanders shall be placed in a shaded container and kept moist, and shall be handled and assessed according to the *Restraint and Handling of Live Amphibians*, U.S. Geological Survey, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001; http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp). If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken:
 - 7.7.1. If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately (see Condition of Approval 7.19);
 - 7.7.2. If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW-approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and the U.S. Fish and Wildlife Service (USFWS). Permittee shall bear any costs associated with the care or treatment

of such injured Covered Species. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 6.9.

- 7.8. Seasonal Work Window. Permittee shall limit ground-disturbing Covered Activities involving construction and heavy equipment use to April 30 and October 31.
- 7.9. Seasonal Work Window Extension. Permittee shall adhere to the seasonal work windows required in Condition 7.8 unless an expanded work window is approved by CDFW's Regional Representative. Permittee shall submit any requests for extensions at least 14 days prior to the desired date of construction or 14 days prior to the expiration of the seasonal work window. If such work during the wet season results in areas previously considered temporarily-disturbed to be restored past October 31, unless otherwise approved by CDFW of the year of the impact, then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (see Conditions of Approval 5.14 and 8.6). If work is approved by CDFW outside of the seasonal work windows required in Condition 7.8, the following conditions shall apply:
- 7.9.1. Project Area, including where equipment will be stored overnight, shall be completely fenced with wildlife exclusion fencing. All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads.
- 7.9.2. All work and vehicle travel shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.
- 7.10. Dry Season Work Restriction. During the Dry Season of April 30 to October 31 of each year until the expiration of this ITP, Permittee shall limit Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and contouring) to periods of low rainfall (less than 0.10 inches per 24-hour period). If rain exceeds 0.10 inches during a 24-hour period, work shall cease. Construction may resume 24 hours after the rain ceases when there is a less than a 40 percent (%) chance of precipitation in the 24-hour forecast, and humidity, as measured locally on-site under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept on-site and subject to inspection.
- 7.11. Wet Season Work Restriction. If CDFW has approved a seasonal work window extension per Condition 7.8, then, during the wet season of November 1 to April 29, Covered Activities shall cease 24 hours prior to a 40 percent or greater forecast of rain from the National Weather Service. Construction may continue 24 hours after the rain ceases and there is less than a 40 percent chance of precipitation in the 24-hour forecast. CDFW may approve work when there is a 40 percent or more chance of precipitation in the 24-hour forecast subject to Condition of Approval 7.9 and the following condition:
- 7.11.1. If work is approved when a greater than 40 percent chance of rain is forecast, the Designated Biologist(s) shall survey the Project site before construction begins

each day rain is forecast. If rain exceeds 0.25 inches during a 24-hour period, work shall cease until there is a less than 40 percent change of precipitation in the 24-hour forecast. All night-time work and construction-related traffic shall be suspended during rain events.

- 7.12. Daily Work Window. The California tiger salamander active season is defined as the period of time during which California tiger salamanders are above ground. California tiger salamander adults migrate to and from breeding ponds during the wet season. California tiger salamander metamorphs and juveniles migrate away from the ponds during the late spring, summer, and fall depending on pond hydroperiod and other variables. All Project earth-disturbing activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise with the exception of deliveries that cannot feasibly be made during the day due to size of delivery, traffic, or other constraints. Such deliveries shall include access within the Project Area via established roadways and unloading within existing graded areas. Except when necessary for driver/pedestrian safety, lighting of the Project Area by artificial lighting during nighttime hours shall be minimized to the maximum extent practicable. Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area where the project is located. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.
- 7.13. Pre-Construction Survey. Prior to initiating Covered Activities at the existing tank site, the Designated Biologist shall perform pre-construction surveys, for the Covered Species, within the boundaries of Project Area. Ground disturbing activities shall be done in a manner that allows Designated Biologists to safely survey the area for the Covered Species. The Designated Biologist shall survey suitable habitat features, such as aquatic and upland areas and beneath woody debris, for the Covered Species. If the Designated Biologist(s) or anyone else discovers the Covered Species, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition of Approval 7.19).
- 7.14. Exclusion Fencing Near Aquatic Features. To prevent the Covered Species from entering the Project Area, exclusion fencing or drift-fence with associated pitfall traps or coverboards shall be constructed in and around the Project Area if work occurs during the wet season. The barrier shall be designed to allow the Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. Refuge opportunities shall be placed along the fence where appropriate. Permittee shall coordinate with CDFW and USFWS on a fencing plan and shall submit the design to CDFW for approval no less than 30 days prior to the proposed start of Covered Activities. Exclusion fencing shall be installed prior to October 31 and shall be placed within 10 feet of the edge of work areas or other appropriate distance in consultation with, and approved by, CDFW and USFWS. Permittee shall maintain the barrier throughout all construction activities. The Designated Biologist shall inspect the area prior to installation. The interior and exterior of the exclusion fencing shall be inspected by the Designated Biologist at least once daily before 0900 each day to ensure that no California tiger salamanders are trapped against the fencing, where they could desiccate or be predated upon. Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects.

The barrier shall remain in place until the Permittee completes all Covered Activities and all construction equipment has been removed from that area. The Designated Biologist shall relocate any Covered Species found along the fence. The Permittee shall avoid damage to small mammal burrows to the maximum extent possible during installation of the exclusion fencing.

Permittee shall also ensure that silt fencing and/or other erosion control methods are used to prevent sediment or other debris from passing into the Covered Species aquatic habitat that is within 500 feet of Project construction activities.

- 7.15. Delineation of Burrow Complexes. The Designated Biologist shall clearly delineate all potential burrows within the Project area (see Condition 7.13) and within 100 feet of the Project footprint with posted signs, posting stakes, flags, and/or rope or cord. Signs, stakes, flags, and/or rope shall be clearly distinguishable from markings used to delineate work areas.
- 7.16. Pre-Construction Burrow Identification. The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of ground disturbing activities, including electrical collection lines along the access road, with flagging no-less-than five days prior to earthmoving activities in those areas. All burrows shall be avoided to the maximum extent practicable during earthmoving activities.
- 7.17. Soil Stockpiles. Permittee shall place soil stockpiles where soil will not pass into potential Covered Species breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 *et seq.* Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.
- 7.18. Covered Species Checks. Before the start of work each morning, the Designated Biologist shall check for the Covered Species individuals under all vehicles, equipment, materials, or otherwise suitable locations for salamanders to hide. Workers shall inspect under vehicles and equipment for the Covered Species before the vehicles and equipment are moved. If the Covered Species is present, the worker shall notify the Designated Biologist. All ruts and holes near root structures, foundations, abutments, etc., shall be inspected for the Covered Species prior to and during excavation or removal. If the Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the individual as required by Condition of Approval 7.19.
- 7.19. Relocation⁴ of the Covered Species. Permittee shall develop a Relocation Plan for the Covered Species and submit it to CDFW for approval at least 30 days prior to ground-disturbing activities occurring within 1.3 miles of known Covered Species breeding pools or in suitable upland habitat. Permittee shall quantify the amount, relative location, and quality of suitable habitat (e.g., breeding, upland, and dispersal habitat) including invasive and non-native species present, available upland burrows, and potential barriers for movement. The Designated Biologist shall relocate any Covered Species individuals within the Project Area

⁴ Relocation refers to the transport and release of a plant or animal immediately outside of an area of disturbance. The distance that the plant or animal is to be moved is limited to the minimum distance needed to promote the safety of the individual. Relocation of species beyond the immediate vicinity of capture (i.e., from one site to another) is not authorized as doing so could increase intra-species competition, attract predators, or spread disease.

impacted by Covered Activities to an active rodent burrow system or appropriate breeding pond located no more than 300 feet outside of the work area and described in the Relocation Plan, unless otherwise approved in advance by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 6.9). The Designated Biologist shall contact CDFW's Regional Representative immediately of any relocation incidents. Incidents that do not result in mortality shall be reported within one working day and in the monthly and final compliance report. At a minimum, the report of the incident shall include the time, location, and circumstances that led to the Covered Species being discovered and confined; the location where the Covered Species was relocated; and photographs of the Covered Species and the locations. All locations shall be geo-referenced and detailed in text.

- 7.20. Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a non-native barred tiger salamander (*Ambystoma tigrinum mavortium*) or suspected California tiger salamander/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative. CDFW. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition 6.9). Permittee shall consult CDFW to determine measures to address non-native or hybrid populations.

8. Habitat Management Land Acquisition and Restoration:

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, and CDFW's estimate of the acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall purchase a total of 1.25 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) within the East Alameda County Conservation Strategy (EACCS) CTS North mitigation area (Chapter 3, Figure 3-10, dated October 2010) OR shall provide for both the permanent protection and management of 1.25 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below.

Additional credits may be required if the CDFW-approved conservation bank site is outside the EACCS CTS North mitigation area described above. Additional credits may also be required if the Project is not within the Service Area of the CDFW-approved conservation bank. Permittee shall provide CDFW with a copy of the credit purchase agreement for the required credits prior to commencing Covered Activities.

Purchase of Covered Species credits at a CDFW-approved conservation bank must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations. If Permittee is unable to purchase credits within the allowed timeframe, CDFW may require an

Amendment to this ITP. If a CDFW-approved conservation bank with Covered Species credits is not available, Permittee shall fulfill the mitigation obligations of this ITP with permanent protection and perpetual management of compensatory habitat through land acquisition.

Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations.

Permittee shall also restore on-site 0.53 acre of temporarily-impacted Covered Species habitat pursuant to Condition of Approval 8.6. If any temporary impacts do not meet the criteria identified in ITP Conditions of Approval 5.13 and 5.14, then CDFW shall require compensatory mitigation to offset the additional Project temporal impacts. If Permittee does not complete seeding of temporary impact areas by October 31, unless otherwise approved by CDFW, of the year of the impact, but restores impact areas within 2 years of the impact consistent with Conditions of Approval 5.13 and 5.14, then CDFW shall consider those disturbed areas as semi-permanent, and require compensatory mitigation at a 2:1 ratio (acres of mitigation: acres of impact). If Permittee does not restore areas considered temporarily-disturbed within 2 years, then CDFW shall consider those areas as permanent impacts, and require compensatory mitigation at a 3:1 ratio (acres of mitigation: acres of impact).

No take beyond the permanent loss of 0.23 acres and temporary loss of 0.53 acres of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts. This mitigation requirement will be identified by CDFW in writing and shall be subject to an amendment as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable regulations and law.

8.1. 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:

8.1.1. Purchase of 1.25 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank is estimated at **\$60,000.00**.

8.1.2. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.6, calculated at \$4,000 per acre for 0.53 acre: **\$2,120.00**.

8.2. Covered Species Credits. Permittee shall purchase 1.25 acre of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 9 below.

OR

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

8.3.1. 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);

- 8.3.2. 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 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species. HM lands shall meet the minimum habitat requirements for the Covered Species including, but not limited to one or more aquatic features on-site which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) or adjacent to aquatic features which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) and already conserved and managed to the satisfaction of CDFW for the Covered Species; no less than 100 acres of suitable upland or adjacent to suitable upland already conserved and managed for the Covered Species.
- 8.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). 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;
- 8.3.4. 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.
- 8.3.5. 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 <https://www.wildlife.ca.gov/Conservation/Planning/Banking>); (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;

- 8.3.6. 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, 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.
- 8.4. 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 8.3.5. 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.

- 8.4.1. 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).;

8.4.2. 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.

8.4.2.1. 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.

8.4.2.2. 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:

8.4.2.2.1. 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.

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

8.4.2.2.3. 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.

8.4.3. 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.

- 8.5. 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.
- 8.6. Habitat Restoration. Permittee shall restore on-site the 0.53 acres of Covered Species habitat that will be temporarily disturbed during construction and to pre-Project condition or better. Within 30 days of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan (Plan) to facilitate revegetation of the 0.53 acres of temporary construction disturbance on-site, and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The seed mix shall be a naturalized combination of rangeland non-invasive grasses and forbs. The plan shall also indicate the best time of year for seeding to occur, three years of monitoring and success criteria. Plantings undertaken during the dry season shall include regular watering to ensure adequate growth if necessary. Permittee shall not plant, seed, or otherwise introduce invasive plant species. Prohibited exotic plant species include those identified in the California Invasive Plant Council's Inventory Database, which is accessible at: <http://www.cal-ipc.org/paf/>. The Plan shall include five years of monitoring and annual reporting to CDFW. All contours shall be returned to their original grades.

9. 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:

- 9.1. Security Amount. The Security shall be in the amount of **\$62,120.00**. This amount is based on the cost estimates identified in Condition of Approval 8.1 above.
- 9.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. The Permittee shall obtain CDFW written approval of any security before its execution.
- 9.3. 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.
- 9.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 9.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 9.6. 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.

9.7. 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 successful restoration;
- Written confirmation from the CDFW approved Mitigation and/or Conservation Bank of its receipt of the full payment for mitigation credits; 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:

Incidental Take Permit
No. 2081-2017-066-03
CITY OF LIVERMORE
DALTON RESERVOIR REPLACEMENT PROJECT

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 Mitigated Negative Declaration for the 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 and Game 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, Dalton Reservoir Replacement Project Mitigated Negative Declaration and Initial Study, the results of site visits and 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 habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly 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, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 1.25 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or 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;
- (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	Map of Project Location
FIGURE 2	Map of Project Area
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2A, 2B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

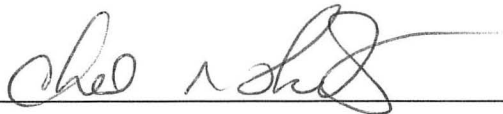
on 10-12-18.



Gregg Erickson, Regional Manager
BAY DELTA REGION

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: 

Date: 11-8-18

Printed Name: CITY ENGINEER

Title: CITY ENGINEER

Incidental Take Permit
No. 2081-2017-066-03
CITY OF LIVERMORE

DALTON RESERVOIR REPLACEMENT PROJECT

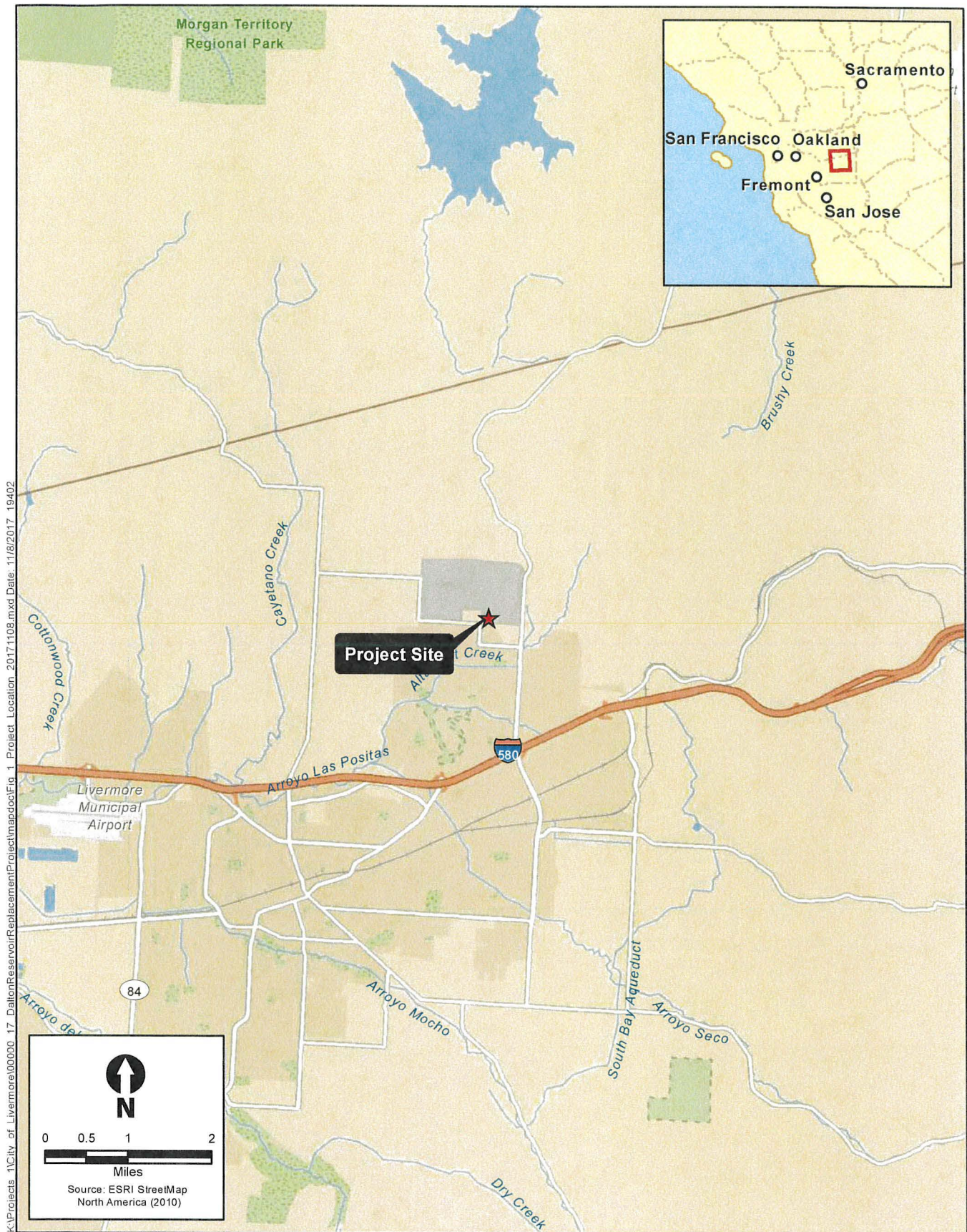
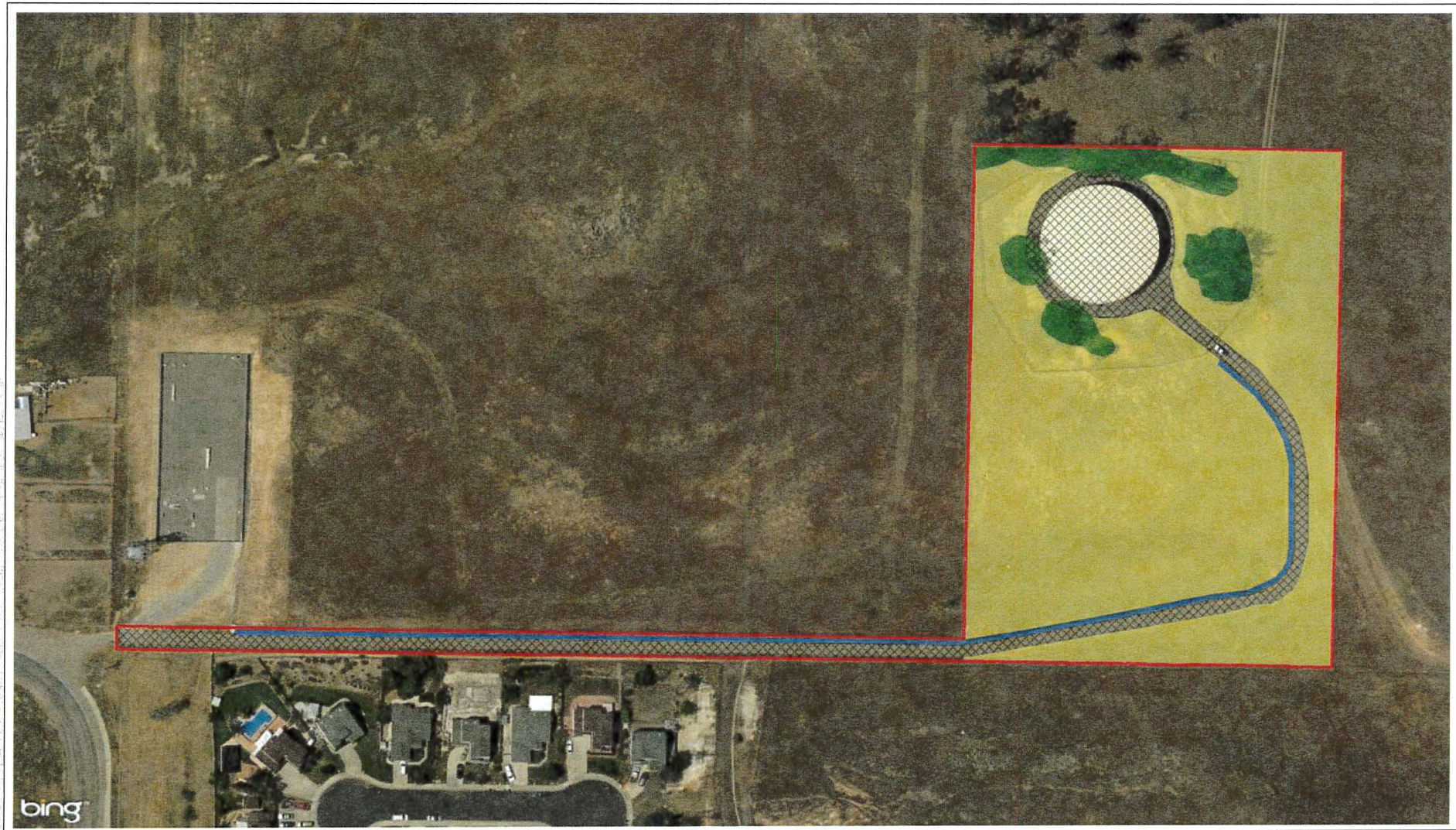


Figure 1
Project Location
Dalton Reservoir Replacement Project



Source: Bing Imagery, 2016



Legend

- Biological Study Area
- California Annual Grassland
- Eucalyptus Woodland
- Ruderal
- Developed

Figure 2
Land Cover Map
Dalton Reservoir Replacement Project

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2017-066-03

PERMITTEE: City of Livermore

PROJECT: Dalton Reservoir Replacement Project

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the California 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	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.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of biological monitors (collectively, 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.	ITP Condition # 5.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	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.	ITP Condition # 5.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
4	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. Plastic water bottles and plastic bags shall be picked up and removed daily.	ITP Condition # 5.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5	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 # 5.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.	ITP Condition # 5.10	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 5.11	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
8	The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	Prior to initiating any temporary impacts, Permittee shall ensure that a Temporary Impact Restoration Schedule has been developed that ensures: (1) recontouring and seeding of temporary impact areas shall occur prior to October 31 of each year where the impacts occur; and (2) all temporary impacts from prior years have met the October 31 recontouring and seeding criteria and have achieved vegetation success as described in the Vegetation Restoration Plan (See Condition of Approval 8.6).	ITP Condition # 5.14	Before commencing ground- or vegetation-disturbing activities	Permittee	
10	Permittee shall ensure that pre-Project baseline conditions are established for documenting type, location and general abundance of invasive plant species within the Project Area. These baseline conditions will be used for post-construction monitoring of restored areas (see Condition 6.18). The Designated Biologist(s) qualified to do botanical surveys and approved by CDFW shall submit the sampling methodology to CDFW at least 30 days prior to conducting baseline surveys. The baseline survey shall include both a qualitative (windshield and pedestrian) and quantitative assessment of target species within the Project Area. Permittee shall ensure that baseline sampling at control transects is conducted prior to the start of Project construction activities. Sampling shall be conducted during the appropriate season for detecting invasive plant species, and shall be based on an appropriate number monitoring plots (treatment and control sets) approved by CDFW. The Designated Biologist(s) shall conduct sampling for target invasive plant species ranked by the Cal-IPC's Inventory as High or Moderate (http://www.cal-ipc.org/paf/).	ITP Condition # 5.15	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	Permittee shall prepare an Invasive Plant Species Control Plan (Invasive Plant Plan) to effectively control and monitor invasive plants within Covered Species habitat that will be temporarily disturbed and subsequently restored. The Invasive Plant Plan shall include the results of baseline surveys (see Condition 5.15). Permittee shall submit the Invasive Plant Plan to CDFW for approval within 30 days prior to the start of restoration activities. The Designated Biologist shall oversee the management of invasives within the Project Area and may use control methods such as hand removal, mechanical removal and/or focused herbicide application within seeding and planting areas following vegetation restoration. The Designated Biologist shall ensure that invasive plant removal does not result in damage to adjacent Covered Species habitat or to root systems of installed plants. Herbicides may be used if hand or mechanical removal of invasives is unsuccessful or infeasible. Herbicides shall not be used within or near aquatic habitat, and shall only be applied by an applicator holding a valid license issued by the California Department of Pesticide Regulation.	ITP Condition # 5.17	Before commencing ground- or vegetation-disturbing activities	Permittee	
12	Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. The construction schedule shall identify the approximate beginning and completion date of each phase of the Project (such as decommissioning, restoration, etc.) and for each Project activity within those phases. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven (7) days prior to the change being implemented.	ITP Condition # 5.18	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
13	Before the onset of work, Permittee shall prepare an Emergency Response Plan describing actions that will be taken in case of a fire or other natural disaster or in case of a human-generated disaster, such as a spill or release of hazardous materials. An emergency phone tree, including contact information for all appropriate disaster management agencies and natural resources agencies, shall be included in the plan and should be posted on-site in a visible location. The Emergency Response Plan shall specify containment procedures for hazardous substances, with emphasis on avoidance of the aquatic features at the Project site.	ITP Condition # 5.19	Before commencing ground- or vegetation-disturbing activities	Permittee	
14	<p>No less than 5 photo monitoring stations shall be established to provide representative views of Project decommissioning, construction, restoration and reclamation activities. Photo monitoring station results shall contribute to the assessment of temporary impacts and restoration work by CDFW; therefore Permittee should ensure that photo monitoring stations numbers and locations are sufficient to document temporary impacts and restoration success. Photo monitoring shall be done as follows:</p> <p>6.4.1. Stations should be located in areas that allow for unobstructed views and a field of vision of approximately 2,000 feet.</p> <p>6.4.2. At least one photograph shall be taken at all stations prior to ground-breaking activities, and each month thereafter until construction and initial restoration is complete. Photo documentation of restoration success shall occur every three months following initial restoration until restoration success criteria are reached.</p> <p>6.4.3. Photo monitoring station locations shall be provided to CDFW in a geographic format with the coordinate system identified.</p> <p>6.4.4. If CDFW or the Designated Biologist(s) determines that additional monitoring stations are necessary, the locations shall be added to the inventory of photo monitoring stations.</p> <p>6.4.5. During each photo monitoring cycle, all stations shall be visited within two days.</p>	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities	Permittee	
15	The Designated Biologist shall clearly delineate all potential burrows within the Project area (see Condition 7.13) and within 100 feet of the Project footprint with posted signs, posting stakes, flags, and/or rope or cord. Signs, stakes, flags, and/or rope shall be clearly distinguishable from markings used to delineate work areas.	ITP Condition # 7.15	Before commencing ground- or vegetation-disturbing activities	Permittee	
16	The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of ground disturbing activities, including electrical collection lines along the access road, with flagging no-less-than five days prior to earthmoving activities in those areas. All burrows shall be avoided to the maximum extent practicable during earthmoving activities.	ITP Condition # 7.16	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
17	<p>Permittee shall develop a Relocation Plan for the Covered Species and submit it to CDFW for approval at least 30 days prior to ground-disturbing activities occurring within 1.3 miles of known Covered Species breeding pools or in suitable upland habitat. Permittee shall quantify the amount, relative location, and quality of suitable habitat (e.g., breeding, upland, and dispersal habitat) including invasive and non-native species present, available upland burrows, and potential barriers for movement. The Designated Biologist shall relocate any Covered Species individuals within the Project Area impacted by Covered Activities to an active rodent burrow system or appropriate breeding pond located no more than 300 feet outside of the work area and described in the Relocation Plan, unless otherwise approved in advance by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 6.9). The Designated Biologist shall contact CDFW's Regional Representative immediately of any relocation incidents. Incidents that do not result in mortality shall be reported within one working day and in the monthly and final compliance report. At a minimum, the report of the incident shall include the time, location, and circumstances that led to the Covered Species being discovered and confined; the location where the Covered Species was relocated; and photographs of the Covered Species and the locations. All locations shall be geo-referenced and detailed in text.</p>	ITP Condition # 7.19	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
18	<p>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, and CDFW's estimate of the acreage required to provide for adequate compensation.</p> <p>To meet this requirement, the Permittee shall purchase a total of 1.25 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) within the East Alameda County Conservation Strategy (EACCS) CTS North mitigation area (Chapter 3, Figure 3-10, dated October 2010) OR shall provide for both the permanent protection and management of 1.25 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below.</p> <p>Additional credits may be required if the CDFW-approved conservation bank site is outside the EACCS CTS North mitigation area described above. Additional credits may also be required if the Project is not within the Service Area of the CDFW-approved conservation bank. Permittee shall provide CDFW with a copy of the credit purchase agreement for the required credits prior to commencing Covered Activities.</p> <p>Purchase of Covered Species credits at a CDFW-approved conservation bank must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations. If Permittee is unable to purchase credits within the allowed timeframe, CDFW may require an Amendment to this ITP. If a CDFW-approved conservation bank with Covered Species credits is not available, Permittee shall fulfill the mitigation obligations of this ITP with permanent protection and perpetual management of compensatory habitat through land acquisition.</p> <p>Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations.</p> <p>Permittee shall also restore on-site 0.53 acre of temporarily-impacted Covered Species habitat pursuant to Condition of Approval 8.6. If any temporary impacts do not meet the criteria identified in ITP Conditions of Approval 5.13 and 5.14, then CDFW shall require compensatory mitigation to offset the additional Project temporal impacts. If Permittee does not complete seeding of temporary impact areas by October 31, unless otherwise approved by CDFW, of the year of the impact, but restores impact areas within 2 years of the impact consistent with Conditions of Approval 5.13 and 5.14, then CDFW shall consider those disturbed areas as semi-permanent, and require compensatory mitigation at a 2:1 ratio (acres of mitigation: acres of impact). If Permittee does not restore areas considered temporarily-disturbed within 2 years, then CDFW shall consider those areas as permanent impacts, and require compensatory mitigation at a 3:1 ratio (acres of mitigation: acres of impact).</p> <p>No take beyond the permanent loss of 0.23 acre and temporary loss of 0.53 acre of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts. This mitigation requirement will be identified by CDFW in writing and shall be subject to an amendment as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable regulations and law.</p>	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<p>CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:</p> <p>Purchase of 1.25 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank is estimated at \$60,000.00.</p> <p>Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.6, calculated at \$4,000 per acre for 0.53 acre: \$2,120.00.</p>	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
20	<p>Permittee shall purchase 1.25 acre of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 9 below.</p> <p>OR</p>	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
21	<p>To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:</p> <p>8.3.1. 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);</p>	ITP Conditions # 8.3 and 8.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
22	<p>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 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species. HM lands shall meet the minimum habitat requirements for the Covered Species including, but not limited to one or more aquatic features on-site which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) or adjacent to aquatic features which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) and already conserved and managed to the satisfaction of CDFW for the Covered Species; no less than 100 acres of suitable upland or adjacent to suitable upland already conserved and managed for the Covered Species.</p>	ITP Condition # 8.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). 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 # 8.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
24	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 # 8.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
25	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 https://www.wildlife.ca.gov/Conservation/Planning/Banking); (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 # 8.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
26	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, 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 # 8.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
27	<p>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 8.3.5. 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.</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 this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
28	<p>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 # 8.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
29	<p>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 # 8.4.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
30	<p>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.</p>	ITP Condition # 8.4.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	<p>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:</p> <ul style="list-style-type: none"> • 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. • Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding. • 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. 	ITP Condition # 8.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
32	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.	ITP Condition # 8.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
33	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 # 9.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
34	Permittee shall restore on-site the 0.53 acre of Covered Species habitat that will be temporarily disturbed during construction and to pre-Project condition or better. Within 30 days of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan (Plan) to facilitate revegetation of the 0.53 acres of temporary construction disturbance on-site, and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The seed mix shall be a naturalized combination of rangeland non-invasive grasses and forbs. The plan shall also indicate the best time of year for seeding to occur, three years of monitoring and success criteria. Plantings undertaken during the dry season shall include regular watering to ensure adequate growth if necessary. Permittee shall not plant, seed, or otherwise introduce invasive plant species. Prohibited exotic plant species include those identified in the California Invasive Plant Council's Inventory Database, which is accessible at: http://www.cal-ipc.org/paf/ . The Plan shall include five years of monitoring and annual reporting to CDFW. All contours shall be returned to their original grades.	ITP Condition # 8.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
35	<p>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> <p>Security Amount. The Security shall be in the amount of \$62,120.00. This amount is based on the cost estimates identified in Condition of Approval 8.1 above.</p> <p>Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. The Permittee shall obtain CDFW written approval of any security before its execution.</p> <p>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.</p> <p>Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> Written documentation of successful restoration; Written confirmation from the CDFW approved Mitigation and/or Conservation Bank of its receipt of the full payment for mitigation credits; 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 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.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
DURING CONSTRUCTION					

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
36	The Designated Biologist(s) shall be on-site full-time daily when Covered Activities occur. The Designated Biologist(s) 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 fencing 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 other wildlife species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections at a minimum of once per week during periods of inactivity, or daily as long as exclusion fencing is in place.	ITP Condition # 6.3	Entire Project	Permittee	
37	To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. The Designated Biologist shall contact the CDFW representative immediately regarding non-compliance issues. The Designated Biologist shall have the authority to consult with the CDFW representative directly. 5.3.1. Permittee shall accommodate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP due to a conflict with Project construction, then the Designated Biologist shall notify the CDFW representative immediately.	ITP Condition # 5.3	Entire Project	Permittee	
38	During Covered Activities and for the first six months following completion of restoration activities, the Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.2, 6.3 and 6.4 into a Monthly 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. Monthly Compliance Reports shall detail approximate Project impacts in acres, separated into permanent and temporary impacts. Temporary impacts shall be categorized as defined in Condition of Approval 5.13. The temporary impacts category shall: (1) identify and describe the temporary impacts to date; (2) describe the location, acres, and type of restoration actions that have occurred; and (3) include all monitoring information required by the Restoration Plan described in Condition of Approval 5.14 and 8.6. Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative by the 5th working day of the following month. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (Marcia.Grefsrud@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 # 6.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
39	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 Monthly Compliance Reports for that year identified in Condition of Approval 6.5; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 6.6	Entire Project	Permittee	
40	The Designated Biologist shall notify the CDFW Representative daily when a Covered Species is seen or taken. 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 Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. The Designated Biologist shall provide the GPS coordinates and photos of the observation to CDFW email at Marcia.Grefsrud@wildlife.ca.gov within 24 hours of the observation.	ITP Condition # 6.7	Entire Project	Permittee	
41	The Designated Representative shall immediately notify CDFW in writing if it 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.	ITP Condition # 7.2	Entire Project	Permittee	
42	The Designated Biologist shall maintain a construction-monitoring notebook and binder 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 construction-monitoring binder is available for review at the Project site upon request by CDFW.	ITP Condition # 5.5	Entire Project	Permittee	
43	All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Permittee shall utilize erosion control measures throughout all phases of Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. No phase of the Project that may cause the introduction of sediments into a drainage, stream, or pond may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to startup of any phase of the Project that may result in sediment runoff to the stream. The Designated Biologist(s) shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately.	ITP Condition # 5.8	Entire Project	Permittee	
44	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, in potential Covered Species' habitat.	ITP Condition # 5.9	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
45	Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: http://www.cal-ipc.org/ip/prevention/index.php and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: http://www.protectyourwaters.net/ .	ITP Condition # 5.16	Entire Project	Permittee	
46	Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition # 5.20	Entire Project	Permittee	
47	Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat (grassland or aquatic) outside of or en route to the Project Area. No overland access is allowed. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines access outside of the Project Area is necessary, 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.	ITP Condition # 5.12	Entire Project	Permittee	
48	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 marked work areas.	ITP Condition # 5.22	Entire Project	Permittee	
49	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 exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 5.21	Entire Project	Permittee	
50	To the maximum extent feasible, Permittee shall ensure that night-time work is avoided. If night-time work cannot be avoided, it will be limited in extent, duration, and brightness to the maximum extent feasible. No earthmoving activities or overland travel shall take place during night-time work. All night-time work and construction-related traffic shall be suspended during rain events. Lighting shall be faced downward and shall only be utilized in the immediate workspace. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.	ITP Condition # 5.23	Entire Project	Permittee	
51	Permittee shall prohibit firearms and domestic dogs from the Project Area and Project site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.	ITP Condition # 5.24	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
52	If the Project site is within a high or very high Fire Hazard Severity Zone (refer to http://frap.fire.ca.gov/projects/hazard/fhz.html) or the risk of fire danger is high based on 7-day predictions from National Oceanic and Atmospheric Administration forecasts, Permittee shall mow access pathways, staging areas and work areas before allowing heavy equipment and vehicles to access the site. Non-living vegetative debris shall be cleared from around the immediate work footprint, and basic fire suppression supplies shall be kept on-site at all times. Disking and/or tilling are not permitted for fire prevention without prior written permission from CDFW.	ITP Condition # 5.25	Entire Project	Permittee	
53	<p>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 email at Marcia.Grefsrud@wildlife.ca.gov and (707) 644-2812 (direct line of CDFW Regional Representative). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two 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.</p> <p>6.9.1. California tiger salamander. If the Covered Species is found recently deceased, a ½-inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to CDFW Bay Delta Region, Attention Marcia Grefsrud, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534. The remaining carcasses shall be delivered to the CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road Suite D, Rancho Cordova, CA 95670 within two calendar days of the discovery.</p>	ITP Condition # 6.9	Entire Project	Permittee	
54	To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the temporary impact; and (2) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (see Condition of Approval 8.6).	ITP Condition # 5.13	Entire Project	CDFW	
55	Permittee, Designated Biologist(s) and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 15 miles per hour when traveling through the Project area.	ITP Condition # 7.1	Entire Project	Permittee	
56	All construction pipes, culverts, or similar structures with a diameter of 2 inches or greater that are stored in the Project Area for one or more overnight periods shall be either securely capped prior to storage or thoroughly inspected by the Designated Biologist(s) and/or the construction foreman/manager for the Covered Species or other animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a Covered Species is found, it shall be relocated as described in Condition of Approval 7.19.	ITP Condition # 7.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
57	To prevent inadvertent entrapment of California tiger salamander during construction, the Designated Biologist shall check all excavated open holes, sumps and trenches for California tiger salamander no later than 0900 each day for trapped animals. If a California tiger salamander is trapped in these features, the Designated Biologist shall remove and relocate the animal(s) to a safe location within suitable habitat (see Condition of Approval 7.19) prior to the start of work activities at that site. At the close of each working day, the Designated Biologist shall ensure all excavated, steep-walled holes or trenches more than 6 inches deep are provided with one or more escape ramps constructed of earthen fill or wooden planks with a slope of 3:1 (run:rise). Before Permittee fills trenches or holes, the Designated Biologist shall thoroughly inspect them for trapped California tiger salamander. If at any time a trapped California tiger salamander is discovered by the Designated Biologist or any work crew member, the Designated Biologist shall move the animal to a safe nearby location.	ITP Condition # 7.3	Entire Project	Permittee	
58	The Designated Biologist shall survey all auguring and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.	ITP Condition # 7.4	Entire Project	Permittee	
59	All potential refuge features (e.g. debris piles), created as a result of the Project shall be inspected by the Designated Biologist for the Covered Species prior to removal. The Designated Biologist shall inspect the debris piles for the Covered Species as the debris is being loaded to trucks.	ITP Condition # 7.5	Entire Project	Permittee	
60	At no time during the life of the Project shall rodenticides or other poisons used in the control of burrowing animals be used by Permittee in the Project Area or within mitigation lands.	ITP Condition # 7.6	Entire Project	Permittee	
61	<p>If an injured Covered Species is found during the Project term, the Designated Biologist shall evaluate the individual and immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the Designated Biologist shall place the injured individual in a safe and shaded location. Any injured California tiger salamanders shall be placed in a shaded container and kept moist, and shall be handled and assessed according to the Restraint and Handling of Live Amphibians, USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001; http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp). If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken:</p> <p>7.7.1. If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately (see Condition of Approval 7.19);</p> <p>7.7.2. If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW-approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and USFWS. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 6.9.</p>	ITP Condition # 7.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
62	Permittee shall limit ground-disturbing Covered Activities involving construction and heavy equipment use to April 30 and October 31.	ITP Condition # 7.8	Entire Project	Permittee	
63	<p>Permittee shall adhere to the seasonal work windows required in Condition 7.8 unless an expanded work window is approved by CDFW's Regional Representative. Permittee shall submit any requests for extensions at least 14 days prior to the desired date of construction or 14 days prior to the expiration of the seasonal work window. If such work during the wet season results in areas previously considered temporarily-disturbed to be restored past October 31, unless otherwise approved by CDFW of the year of the impact, then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (see Conditions of Approval 5.14 and 8.6). If work is approved by CDFW outside of the seasonal work windows required in Condition 7.8, the following conditions shall apply:</p> <p>7.9.1. Project Area, including where equipment will be stored overnight, shall be completely fenced with wildlife exclusion fencing. All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads.</p> <p>7.9.2. All work and vehicle travel shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.</p>	ITP Condition # 7.9	Entire Project	Permittee	
64	During the Dry Season of April 30 to October 31 of each year until the expiration of this ITP, Permittee shall limit Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and contouring) to periods of low rainfall (less than 0.10 inches per 24-hour period). If rain exceeds 0.10 inches during a 24-hour period, work shall cease. Construction may resume 24 hours after the rain ceases when there is a less than a 40 percent (%) chance of precipitation in the 24-hour forecast, and humidity, as measured locally on-site under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept on-site and subject to inspection.	ITP Condition # 7.10	Entire Project	Permittee	
65	<p>If CDFW has approved a seasonal work window extension per Condition 7.8, then, during the wet season of November 1 to April 29, Covered Activities shall cease 24 hours prior to a 40 percent or greater forecast of rain from the NWS. Construction may continue 24 hours after the rain ceases and there is less than a 40 percent chance of precipitation in the 24-hour forecast. CDFW may approve work when there is a 40 percent or more chance of precipitation in the 24-hour forecast subject to Condition of Approval 7.9 and the following condition:</p> <p>7.11.1. If work is approved when a greater than 40 percent chance of rain is forecast, the Designated Biologist(s) shall survey the Project site before construction begins each day rain is forecast. If rain exceeds 0.25 inches during a 24-hour period, work shall cease until there is a less than 40 percent change of precipitation in the 24-hour forecast. All night-time work and construction-related traffic shall be suspended during rain events.</p>	ITP Condition # 7.11	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
66	The California tiger salamander active season is defined as the period of time during which California tiger salamanders are above ground. California tiger salamander adults migrate to and from breeding ponds during the wet season. California tiger salamander metamorphs and juveniles migrate away from the ponds during the late spring, summer, and fall depending on pond hydroperiod and other variables. All Project earth-disturbing activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise with the exception of deliveries that cannot feasibly be made during the day due to size of delivery, traffic, or other constraints. Such deliveries shall include access within the Project Area via established roadways and unloading within existing graded areas. Except when necessary for driver/pedestrian safety, lighting of the Project Area by artificial lighting during nighttime hours shall be minimized to the maximum extent practicable. Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area where the project is located. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.	ITP Condition # 7.12	Entire Project	Permittee	
67	Prior to initiating Covered Activities at the existing tank site, the Designated Biologist shall perform pre-construction surveys, for the Covered Species, within the boundaries of Project Area. Ground disturbing activities shall be done in a manner that allows Designated Biologists to safely survey the area for the Covered Species. The Designated Biologist shall survey suitable habitat features, such as aquatic and upland areas and beneath woody debris, for the Covered Species. If the Designated Biologist(s) or anyone else discovers the Covered Species, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition of Approval 7.19).	ITP Condition # 7.13	Entire Project	Permittee	
68	<p>To prevent the Covered Species from entering the Project Area, exclusion fencing or drift-fence with associated pitfall traps or coverboards shall be constructed in and around the Project Area if work occurs during the wet season. The barrier shall be designed to allow the Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. Refuge opportunities shall be placed along the fence where appropriate. Permittee shall coordinate with CDFW and USFWS on a fencing plan and shall submit the design to CDFW for approval no less than 30 days prior to the proposed start of Covered Activities. Exclusion fencing shall be installed prior to October 31 and shall be placed within 10 feet of the edge of work areas or other appropriate distance in consultation with, and approved by, CDFW and USFWS. Permittee shall maintain the barrier throughout all construction activities. The Designated Biologist shall inspect the area prior to installation. The interior and exterior of the exclusion fencing shall be inspected by the Designated Biologist at least once daily before 0900 each day to ensure that no California tiger salamanders are trapped against the fencing, where they could desiccate or be predated upon. Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects.</p> <p>The barrier shall remain in place until the Permittee completes all Covered Activities and all construction equipment has been removed from that area. The Designated Biologist shall relocate any Covered Species found along the fence. The Permittee shall avoid damage to small mammal burrows to the maximum extent possible during installation of the exclusion fencing.</p> <p>Permittee shall also ensure that silt fencing and/or other erosion control methods are used to prevent sediment or other debris from passing into the Covered Species aquatic habitat that is within 500 feet of Project construction activities.</p>	ITP Condition # 7.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
69	Permittee shall place soil stockpiles where soil will not pass into potential Covered Species breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 et seq. Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.	ITP Condition # 7.17	Entire Project	Permittee	
70	Before the start of work each morning, the Designated Biologist shall check for the Covered Species individuals under all vehicles, equipment, materials, or otherwise suitable locations for salamanders to hide. Workers shall inspect under vehicles and equipment for the Covered Species before the vehicles and equipment are moved. If the Covered Species is present, the worker shall notify the Designated Biologist. All ruts and holes near root structures, foundations, abutments, etc., shall be inspected for the Covered Species prior to and during excavation or removal. If the Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the individual as required by Condition of Approval 7.19.	ITP Condition # 7.18	Entire Project	Permittee	
71	The Designated Biologist shall immediately notify CDFW if a non-native barred tiger salamander (<i>Ambystoma tigrinum mavortium</i>) or suspected California tiger salamander/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative, CDFW. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition 6.9). Permittee shall consult CDFW to determine measures to address non-native or hybrid populations.	ITP Condition # 7.20	Entire Project	Permittee	
POST-CONSTRUCTION					
72	Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill, tank pieces, 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 # 5.26	Post-construction	Permittee	
73	No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly 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 this ITP's Conditions of Approval in minimizing and fully mitigating Project 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 # 6.8	Post-construction and after completion of mitigation	Permittee	
74	CDFW accepts the Final Mitigation Report as complete.		Post-construction	CDFW	

ATTACHMENT 2A
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)



ATTACHMENT 2B

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: _____
Regional Manager's Signature

DATE: _____

REJECTED ____

Region: _____

Explanation: _____

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

Issue Date: [**date**]

Beneficiary:

California 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 California Department of Fish and Wildlife, the General Counsel of the California Department of Fish and Wildlife, or a Regional Manager of the California 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: California 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 California 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]"

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: _____	