

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 4

OFFICE OF BIOLOGICAL SCIENCE &amp; PERMITS

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**RECEIVED**Making Conservation  
a California Way of Life.**JAN 21 2020****HABITAT CONSERVATION  
PLANNING BRANCH**

January 14, 2019

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

SUBJECT: Incidental Take Permit for 2081-2018-085-03 State Route 84, Niles  
Canyon Safety Improvements Project, Alameda County. Caltrans EA 04-2A332.

Please find enclosed a signed copy of the Incidental Take Permit 2081-2018-085-03 for the State Route 84, Niles Canyon Safety Improvements Project in Alameda County.

Please contact me at (805) 704-4272 or [nicole.christie@dot.ca.gov](mailto:nicole.christie@dot.ca.gov) if you have any questions regarding the permit.

Sincerely,

A handwritten signature in blue ink, appearing to read "Nicole Christie".

NICOLE CHRISTIE  
WILDLIFE BIOLOGIST  
OFFICE CHIEF, BIOLOGICAL SCIENCE AND PERMITS  
CALIFORNIA DEPARTMENT OF TRANSPORTATION

Enclosure: Signed copy of ITP 2081-2018-085-03 January 8, 2020

c: Robert Stanley, Caltrans Liaison, California Department of Fish and Wildlife



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JAN 21 2020

HABITAT CONSERVATION  
PLANNING BRANCH

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. 2081-2018-085-03

**STATE ROUTE 84 NILES CANYON SAFETY IMPROVEMENTS 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 take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> 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).

<b>Permittee:</b>	<b>California Department of Transportation</b>
<b>Principal Officer:</b>	<b>Jack Siau, Project Manager</b>
<b>Contact Person:</b>	<b>John Yeakel, (510) 286-5681</b>
<b>Mailing Address:</b>	<b>111 Grand Avenue Oakland, CA 94623-0660</b>

**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, 2025**.

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 6.7 of this ITP.

**Project Location:**

The Niles Canyon Safety Improvements Project (Project) is located within Niles Canyon over Alameda Creek and Stonybrook Creek along State Route 84 (SR-84) from Post Mile 10.8 to 18.0, in Alameda County, in the State of California (Figure 1).

<sup>1</sup>Pursuant 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"].)

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



**Project Description:**

The California Department of Transportation (Caltrans) (Permittee) proposes to improve the Niles Canyon corridor of SR-84 for Safety Improvements. The Project will include installation of traffic signs and lighting, low speed curve improvements, k-rail and Midwest guardrail installation, installation of a rock drapery system, signalization, limited shoulder widening, and the replacement of one culvert at Stonybrook Creek with a single-span bridge. The Project will consist of the following elements:

**Access and Staging**

Area identified in Figure 3 shall be used for staging and access. Most staging will primarily occur on the existing road or road shoulders.

**Low Speed Curve Improvements**

From Post Mile (PM) 13.70 to 13.80 for 500 linear feet a sharp curve shall be improved for safety (Figure 3, Map 6). No construction materials for work at the low-speed curve will be stored on-site. Any existing paved areas within the Caltrans right of way within the Project area may be used for materials/construction staging. No non-paved areas within the Caltrans right of way are proposed as equipment staging areas. Construction will be mostly at night with one lane closed, from 9 p.m. to 4 a.m. with construction lighting pointed towards the road. The curve will be reconstructed so that it has an overall 12 percent super elevation, curve bank. The existing roadway pavement would be ground and overlaid to provide the additional super elevation throughout the curve. The surface of the pavement would be wetted down prior to grinding to reduce dust. A vacuum truck would then remove the loose material. The approximate roadway length of increased super elevation would be 280 feet. The increase in super elevation would hinge around the westbound edge of the travel way. An additional five feet of widening would be required on the eastbound side to create a standard eight-foot-wide shoulder. The current 11-foot lane will be increased to 12 feet throughout the 300-foot length of this curve and extended to a total length of 500 feet. The total fill associated with curve correction and super elevation is approximately 372 cubic yards. Permanent impacts will be 0.173 acres and temporary impacts will be 0.153 acres. This is occurring in the same area as the proposed retaining wall noted below.

**Rock Cuts and Installation of Type 60 Concrete Barrier at Low-Speed Curve Improvement**

Two rock cuts are proposed at the Low-Speed Curve Improvement Location. The first cut spans from station 39+80 to 40+13 (Figure 3, Map 6) along 33 linear feet, 8 to 10 feet in height. The second rock cut spans from Station 42+50 to 42+90 (Figure 3, Map 7) along 40 linear feet, 8 to 10 feet in height. The excavated material will total 70 cubic yards at the two locations. A 310-foot-long, 3-foot-tall, Type 60 concrete barrier is proposed as a safety measure. All equipment and staging areas used to construct the rock cuts will be located on the existing pavement. Rock cuts and barrier installation will result in approximately 0.17 acres of permanent impacts and 0.50 acre of temporary impacts. An existing 24-inch diameter cross-pipe drainage feature at the low speed curve will be extended 10 feet to cross the newly widened eastbound shoulder. The drainage pipe carries runoff from the highway and adjacent landscaping. Impacts are included in the shoulder widening.

**Rock Fall Protection System**

A rock fall protection system will be installed on a steep section of hillside adjacent to SR-84 that is prone to rock falls (Figure 3, Map 3). A cable net drapery system will be installed from station 335 to 337+50 for approximately 250 linear feet. The cable net drapery will be anchored at the top of the slope, approximately 40 feet above the roadway. Anchoring of the cable net drapery will be located

Incidental Take Permit  
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CALIFORNIA DEPARTMENT OF TRANSPORTATION  
STATE ROUTE 84 NILES CANYON SAFETY IMPROVEMENTS PROJECT



within the Caltrans right of way. A 26-foot by 100-foot area at the top of the slope, directly above the cable net drapery will be acquired as a new right of way to install and maintain the cable net drapery system. All materials needed to construct the cable net drapery system will be flown in by helicopter to the newly acquired right of way area at the top of the slope. The individual panels will be flown in by helicopter and connected to the top support cable and laid across the slope with hand-tools and personnel on rope. Access for installation of this cable net drapery system is expected to require an area 170 feet upslope from the centerline of the road as equipment staging. The rock fall protection system will result in 0.537 acres of permanent impacts and 1.597 acres of temporary impacts.

#### Shoulder Widening and Barrier Rail Replacements

Shoulder widening shall occur to accommodate up to an eight-foot shoulder with a safety edge on both sides of the current travel lane. Shoulder widening shall occur over 6,410 linear feet (Figure 3, Maps 8-13) and have 0.576 acres of permanent impacts and 0.762 acres of temporary impacts. From the intersection of ALA-2380 to the SR-84 intersection with Interstate 680, 9,200 linear feet of existing metal beam guard rail will be replaced with Midwest guardrail and 2,600 linear feet of new guardrail will be installed (Figure 3 and 4).

#### Demolition and Replacement of Existing Stonybrook Box Culvert

The existing Stonybrook box culvert, approximately 16 feet wide and 60 feet long will be demolished by jack hammer and removing pieces by hand and hauled away by trucks. Removal of the bottom of the culvert will occur to an area five feet below the original ground. During demolition, a temporary ground cover of plastic sheets, tarps and or plywood sheets will be used. No temporary stockpiling of material in the creek is proposed. The Stonybrook box culvert will be replaced with a single span bridge that would span 50 feet over Stonybrook Creek (Figure 3, Map 4) using an excavator, hoe ram, backhoe, loader, manually wheeled or tracked compactor, material handling trucks, concrete trucks and tremie. The proposed bridge would be skewed to match the flow line of the creek. The bridge will consist of a cast in place slab or precast I-girders, which will sit on diaphragm or seat type abutments founded on 24-inch diameter cast in drilled hole (CIDH) piles. The two abutment foundations will be constructed outside the creek channel, both abutments will be connected to retaining walls/wing walls and shall result in 0.220 acres of permanent impact and 1.010 acres of temporary impacts. The two retaining walls are approximately 100 feet long, one foot wide, with a max height of ten feet and will be constructed on the northeast and southwest sides of the bridge. Type 736 Concrete barriers would be constructed on top of the two retaining walls. These structures are 100 feet long, one foot wide and three feet tall. Temporary falsework shall require falsework to be placed within the channel or Stonybrook Creek. A work platform will be installed approximately 54 feet long and 58 feet wide under the bridge to support the falsework. Two falsework pads measuring 51 feet long by four feet wide will be placed on the platform. Temporary impacts for falsework include 0.072 acres. Rock slope protection shall be installed on either side of the two new abutments underneath the SR-84 Roadway. Rock slope protection would extend the entire length of the single-span Stonybrook Bridge abutment and would wrap around the outer edge of the bridge for approximately 20 feet.

#### Temporary Creek Diversion

A temporary creek diversion shall be installed that consists of one temporary coffer dam upstream of the work area to prevent inflow with an 18-inch pipe on the east side of the channel. The pipe will be moved to the west side of the channel when work on removal of the box culvert is required. The pipe will extend approximately 60 feet downstream and empty into a natural decline in the creek bed. The creek diversion will impact an area temporarily to 0.38 acres.



### Utility Pole Removal and Electrical Conduits

Utility poles within eight feet of the edge of the travel way will be moved ten feet from their current locations perpendicular to the existing roadway or across the road where limited space exists to relocate the poles. If a guardrail exists to protect the poles they will not be relocated. A ten-foot buffer will surround the pole as an area of temporary impact. The area of impact for the removal of existing poles and the constructing new poles will be approximately four feet by four feet. Each new pole will be 18 inches, a total of 14 utility poles are expected to be relocated, this will result in impacts to 0.001 acres of permanent impacts and 0.032 acre of temporary impacts. All of the electrical systems including signalization, active warning system, lighting, speed feedback, dynamic active warning systems, and the relocation of flashing beacons will be powered by solar panels or connected to existing electrical infrastructure. Non-solar systems will require conduit to be placed in trenches two feet by three feet deep. An additional width of six feet from the electrical trenching will be required for equipment access and staging. Conduit trenching will result in 0.315 acres of temporary impacts along 5,400 linear feet and shall remove approximately 1,200 cubic yards of soil.

### Signalization and Lighting

Signalization will occur at the intersection of SR-84 and Pleasanton-Sunol Road as well as signalization of the intersection of SR-84 and Main Street in Sunol. Six Type 15 lighting poles will be installed at the SR-84 and Pleasanton-Sunol Road intersection as well as one Type 28-5-100 lighting pole. This work will result in 0.001 acres of permanent impacts and 0.03 acres of temporary impacts. The intersection of SR-84 and Main Street in Sunol will install four new Type 15 lighting poles and stop bars. This work will result in 0.001 acres of permanent impacts and 0.01 acres of temporary impacts. Electricity would be provided to these lights by using cabinets connected to buried conduits to existing poles and excavation work for new poles and new cabinets as well as trenching for electrical conduits as needed. Standard Caltrans Type 15 lighting poles on standard footings will be installed at 16 locations along the length of the Project and connected by buried conduits to existing pull boxes or utility poles (Figure 3 and 4). The area of disturbance for each pole is approximately 30 inches in diameter by 5 feet deep. Lighting installation will result in 0.002 acres of permanent impacts and 0.006 acres of temporary impacts.

### Active Warning System

Four active warning systems will be installed throughout the Project area as specified in Figure 3 and 4. The active warning system is a push button activated flashing beacon that bicyclists can use to signal their presence on roadway structures such as bridges and underpasses to motorists. The components of the system are a 36-inch post bearing the push button installed outside the shoulder, two 14-foot posts with footings bearing a warning sign and the button actuated flashing yellow beacon and a five-foot by two-foot controller cabinet with footing. Each button post will be placed in a hole drilled by a rig mounted auger to a depth of approximately three feet and held in place with concrete. Three of the four systems will be connected to existing electrical utility services by buried conduits. The fourth location will be powered by solar panel. Work for the active warning system will result in 0.001 acres of permanent impact and 0.006 acres of temporary impacts.

### Speed Feedback Signs and Dynamic Active Warning System

The Project will install three solar powered speed-feedback signs and twelve conventionally powered speed-feedback signs at various locations along SR-84 (Figure 3 and 4). The solar powered feedback signs will be constructed by drilling a post hole, placing a breakaway steel pole, backfilling with excavated material and then mounting the feedback sign and solar panel. Conventionally



powered speed feedback signs will require electrical hookup to a controller cabinet and buried electrical conduit. Excavations for sign install will result in 0.002 acres of permanent impacts and 0.014 acres of temporary impacts. The Dynamic Active Warning System automatically triggers an extinguishable message sign (EMS) when vehicles are present. Two systems will be installed, at the approach to the Silver Springs undercrossing (See Figure 3, Map 4) and at the Palomares Road intersection. The electrical will require a cabinet and conduit trenching. Component install will result in 0.001 acres of permanent impacts and 0.001 acres of temporary impacts.

#### Relocate Flashing Beacons and Traffic Signs

Relocation of existing flashing beacons shall occur east of the Palomares undercrossing to a pole with mast arm that will be 250 feet east of the current location (Figure 3, Map 4). The components will be connected to existing electrical utility service and result in 0.001 acres of permanent impacts and 0.003 acres of temporary impacts. As part of the proposed safety improvements, 29 new roadway traffic signs will be installed and four existing signs will be removed and replaced. Installation and reinstall of signs will impact 0.001 acres permanently and 0.011 acres temporarily.

#### Tree Removal

Trees within eight feet of the edge of the roadway will be removed unless guardrail exists to protect the trees. A total of 33 trees will be removed due to their proximity to the roadway, though this only represents a partial list of total trees to be removed as part of this Project, see Figure 5 for full extent of tree removals. Caltrans will make an effort to reduce impacts to trees in temporary impact areas to the greatest extent possible. This may include tree pruning instead of removal where possible. Initial tree removal is estimated at one month; however, trimming may occur throughout the Project as needed. Trees will be cut using mechanical means such as electric or gas operated saws from the edge of the travel way. An approximate ten-foot by ten-foot area will be impacted around each tree that is removed. A truck with a chipper will be used for chipping the removed trees and stumps will be ground out.

#### Revegetation/Restoration

In areas of temporary construction impact, the appropriate native vegetation will be planted. The old alignment will be remediated and replanted with appropriate native vegetation and trees. Restoration work associated with channel habitat improvements shall also be conducted to re-contour the stream to match upstream conditions along with a low flow channel and local rock material. Additional material shall be imported to contour the new bed, bank and channel with the improved conditions at the site as specified in Condition of Approval 9.6, the additional material shall be subject to CDFW review and approval based on a written submission from the Permittee.

The Biological Study Area (BSA) illustrated in Figure 1 consists of 61.95 acres, which consists of 1.56 acres of annual grassland, 0.24 acres of barren ground, 5.22 acres of Coastal Oak Woodland, 4.37 acres of Coastal Oak Scrub, 0.68 acres of creek channel, 0.03 acres of freshwater emergent wetlands, 28.54 acres of road and previously paved surfaces, 12.85 acres of urban landscape, 0.17 acres of railroad and 8.30 acres of Valley Foothill Riparian Habitat.

#### **Covered Species Subject to Take Authorization Provided by this ITP:**

This ITP covers the following species:

**Name****CESA Status**

1. Alameda whipsnake (*Masticophis lateralis euryxanthus*)  
also known as  
Alameda striped racer (*Coluber lateralis euryxanthus*)

Threatened<sup>3</sup>

These species and only these species are 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 initial site preparation; heavy equipment operation; handling of stockpiles and stored materials; foot traffic; grading; trenching; road resurfacing; excavation associated with retaining walls; installation of signage, fencing, and/or relocation activities prescribed by this ITP (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as destruction of burrows and dens that the Covered Species inhabit; being crushed under moving vehicles and equipment; disturbance in the vicinity of dens or burrows; and predation along fence lines, retaining walls, and other barriers to movement. 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 from capture and relocation attempts as required by this ITP. Relocation could, absent implementation of protective measures, result in mortality, injury to Covered Species by individuals involved in the relocation effort. The areas where authorized take of the Covered Species is expected to occur include: within Covered Species habitat areas subject to ground disturbing activities as shown in Figure 1 (collectively, the Project Area). Impacts to Alameda whipsnake (AWS) include temporary impacts to 3.77 acres of AWS suitable habitat and permanent impacts to 1.41 acres of suitable AWS habitat as specified in Figure 2 and Figure 4.

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 construction noise and vibrations and from capture and relocation; temporary and permanent habitat loss; and long-term effects due to increased pollution, 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.

<sup>3</sup>See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(4)(D).



**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 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 Niles Canyon Safety Improvements Project Environmental Impact Report (EIR) (SCH No.: 2015092075) adopted by the California Department of Transportation on January 18, 2018 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), unless otherwise conditioned herein.
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. 1600-2018-0408-R3) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Formal Consultation on the State Route 84 Niles Canyon Medium Term Safety Improvement Project, Alameda County, California (Biological Opinion 08ESMF00-2015-F-0301-1) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
6. **General Provisions:**
  - 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
  - 6.2. Designated Biologist(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history collecting and



handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.

- 6.3. 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 in consultation with the Resident Engineer, 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.
- 6.3.1. Permittee shall accommodate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to ensure compliance with this ITP, the Designated Biologist shall notify the CDFW representative immediately.
- 6.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project upon request by CDFW.
- 6.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Plastic water bottles and plastic bags shall be picked up and removed daily.
- 6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist.

Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.

- 6.8. Erosion Control. All erosion and sediment control measures shall be installed prior to ground disturbing Covered Activities. Permittee shall utilize erosion control measures throughout all phases of the Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a drainage, stream, or ponded area. No phase of the Project that may cause the introduction of sediments into a drainage, stream or ponded area 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 the startup of any phase of the Project that may result in sediment runoff to a drainage, stream, or ponded area. The Permittee shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately. Following completion of the Project, Permittee shall implement erosion control measures for all disturbed areas, which may include reseeding using a noxious weed-free locally native seed mix, hydroseeding, jute matting, or tackifying agents to stabilize soils, dust control, and prevent erosion.
- 6.9. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as plastic or mono-filament netting (erosion control matting) or similar material. Tightly woven silt fencing material or woven organic materials such as coir logs (without mono-filament netting) shall be permitted.
- 6.10. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, state, or federal law enforcement officials.
- 6.11. 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.
- 6.12. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the vicinity of 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 outside of the Project Area.
- 6.13. 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 outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.



- 6.14. 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 Project Area unless provided for as described in Condition of Approval 6.12 of this ITP.
- 6.15. 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.
- 6.16. 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.
- 6.17. Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 14 calendar days prior to the start of Project construction activities each season. The construction schedule shall identify the approximate beginning and completion date of Project activities. 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.
- 6.18. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill 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.
- 6.19. 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.). 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/>.

## **7. Monitoring, Notification and Reporting Provisions:**

- 7.1. 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.
- 7.2. Notification of Non-compliance. The Designated Representative and Designated Biologist 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 and Designated Biologist shall report any non-compliance with this ITP to CDFW within 24 hours.

- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and 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 their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of twice per week during periods of inactivity and after clearing, grubbing, and grading are completed.
- 7.4. Tree Removal Report. A tree removal report shall be required for submission that records all trees removed as a result of Covered Activities. The report shall include trees species, diameter at breast height, location and health status. The report should be submitted in monthly and annual compliance reports each season and in the Final Construction Report as specified in Conditions of Approval 7.5, 7.6 and 7.8. The report shall track the removal and limbing of trees throughout the course of the Project to keep an on-going count of trees removed or impacted. The report should include aerial maps, illustrations and tables.
- 7.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 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. The reports shall: (1) identify and describe the temporary and permanent 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 terms of this ITP. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Robert Stanley ([robert.stanley@wildlife.ca.gov](mailto:robert.stanley@wildlife.ca.gov)) and Headquarters CESA Program email is [CESA@wildlife.ca.gov](mailto:CESA@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 7.6. 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 7.5; (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. ASRs 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 Robert Stanley ([robert.stanley@wildlife.ca.gov](mailto:robert.stanley@wildlife.ca.gov)).

- 7.7. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.8. Final Mitigation Report. No later than 60 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.
- 7.9. 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 by calling the Regional Office at (707) 428-2002. 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 business 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.
- 7.10. Covered Species Mortality. If the Covered Species is found recently deceased, the 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. The specimen 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.

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

Covered Species Measures:

- 8.1. Seasonal Restrictions. All work shall be limited to occur from June 1 to October 31 each season within Stonybrook Creek. Areas of rock outcroppings and possible dens for Covered Species should be avoided and have no work occur until August 15 each year for the duration of the Project. Guardrail work may occur at any time provided all conditions of approval are adhered to as specified in this ITP. Upland work is limited to occur from March 1 to November 30.
- 8.2. Vehicle Speed Limit. All vehicles shall be limited to a speed limit of 20 m.p.h. or less on main roads, access roads at all times within the boundary limits of active construction.
- 8.3. Daily Clearance Surveys. The Designated Biologist will conduct daily pre-construction surveys immediately prior to the initiation of work each day within the Project Area throughout the course of the Project. The Designated Biologist shall walk the Project Area and access roads while conducting visual encounter surveys in areas subject to vegetation clearing, grubbing, grading, cut and fill, or other ground disturbing activities. The surveys shall also include the inspection of parked vehicles or equipment prior to their use each day. The Permittee will ensure that a Designated Biologist inspects all staged materials each morning prior to the initiation of construction activities involving disturbance of material piles. Survey notes shall be kept and recorded as specified in this ITP. During active construction multiple biologists shall be required on-site, when needed in circumstances of line of sight constraints to ensure all active equipment has a designated biologist within view of the Covered Activities.
- 8.4. Environmentally Sensitive Areas. Prior to the start of construction, for each season, an Environmentally Sensitive Areas (ESAs) plan shall be submitted to CDFW for review 30 days prior to the initiation of construction. The ESA plan shall be clearly delineated using high-visibility orange fencing as the primary option to protect sensitive habitats, other options approved in advance by CDFW may be authorized. The ESA signification system will remain in place throughout the duration of the Project. It may be removed during the wet season (and subsequently re-installed) if needed to prevent materials from being washed away. The final Project plans will depict all locations where ESA signification will be installed and how it will be installed. The bid solicitation package special provisions will clearly describe acceptable signification material and prohibited construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within ESAs. ESA materials shall be installed as directed by a Designated Biologist and maintained in good repair throughout the Project as needed.
- 8.5. Protection of Rock Outcroppings. All rock outcroppings shall be identified as specified in Condition of Approval 8.4 and protected to the maximum extent feasible. The outcroppings shall be flagged, fenced, or discussed during environmental training to ensure those areas are avoided, to ensure additional impact shall not occur. In areas of temporary impact, rock



outcroppings shall be photographed and rebuilt as close as possible to pre-Project conditions. In areas of permanent impact to rock outcropping the proponent shall report the impacts to CDFW as specified in this ITP.

- 8.6. Covered Species Exclusionary Fencing. An exclusionary fencing system shall be required and plans shall be submitted for CDFW approval 30 days prior to the initiation of construction each season. The exclusionary fencing system shall be required to encompass access roads, staging areas and active construction areas as to not allow outside access of Covered Species into those areas with a series of no gaps or breaks in the fencing system. The plan submission shall be in map form illustrating the proposed alignment with a brief description of the materials to be employed as well as diagram of the fence material and design. All material stockpiles and Project related equipment must be stored within the fenced staging area when not in use.

Immediately following the conclusion of vegetation clearing as specified in Condition of Approval 8.7, the staging area, access roads and Project Area shall be checked for Covered Species and shall have exclusionary fencing installed around them as follows; the fencing will be standard silt fencing at least forty-two (42) inches in height that will be trenched a minimum of four (4) inches into the soil. The soil will then be compacted against both sides of the fence to prevent wildlife from gaining access underneath. The stakes will be placed on the Project side of the fence. No gaps or holes are permitted in the fencing system.

Any vegetation outside the direct area of fencing within a three (3) foot perimeter must be cleared to a height of six (6) inches and maintained throughout the project at this height, using vegetation removal and clearing methods as specified in Condition of Approval 8.7. A Designated Biologist must be present during all vegetation removal activities.

Prior to the initiation of construction each day, the fence shall be inspected daily by a Designated Biologist or biological monitor for holes, gaps, or access points, which shall be repaired upon discovery. The area inside the fence shall also be inspected for trapped Covered Species prior to the initiation of construction each day. If a Covered Species is discovered the Covered Species shall be monitored until it has left the fenced area on its own accord, no work shall occur during this period. If the Covered Species does not leave on its own accord CDFW will be contacted before work may continue.

- 8.7. Vegetation Clearing within Exclusionary Fencing Areas. Areas proposed to be encompassed by exclusionary fencing including staging areas, access routes, and the Project Area will be surveyed as required by the Conditions of Approval in this ITP prior to vegetation removal, installation of fencing and prior to the deployment of any staging or stockpile materials. The vegetation removal will be monitored by a Designated Biologist for the duration of the Project; the Designated Biologist has the authority to stop work if required for any reason in consultation with the Resident Engineer.

The vegetation within these areas shall be mowed or trimmed to a height of six inches and no less, using hand tools, weed-whackers, and mowers as necessary. No heavy motorized equipment (i.e. tractor) may be employed for vegetation removal without approval from CDFW. No excessive soil disruption and no grubbing or removal of root systems is



permitted during the vegetation clearing for exclusionary fencing areas. The vegetation must be maintained at ground level for the duration of the Project. All mowed and trimmed vegetation matter shall be removed from the area to an off-site location. Immediately after vegetation clearing has concluded, exclusionary fencing shall be installed as specified in Condition of Approval 8.6.

- 8.8. Wildlife Exclusion Fencing Refuge Areas/Cover Boards. The Permittee shall provide refuge opportunities, such as cover boards (2-foot x 2.6-foot plywood), along the Covered Species exclusion fence on both sides of the fence. Permittee shall submit to CDFW for approval the location and design of the barrier and refuge opportunities no less than 30 days prior to the initiation of construction each season. The Designated Biologist shall inspect refuge areas each morning, as well as, during and after rain events. Covered Species within the interior fence should be given the ability to leave on their own accord before active relocation is attempted. All species found shall be identified, recorded and submitted to CDFW in the Final Construction Report and reported to CNDDDB as specified in this ITP. All wildlife shall be relocated to a safe location outside the Project Area. All relocation events shall be reported in the Final Construction Report.
- 8.9. Trench Escape and Inspection. The Designated Biologist and trained construction foreman/manager, supervised by the Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning of each day for trapped animals. To prevent inadvertent entrapment of Covered Species, the Designated Biologist(s) shall oversee the covering of all trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that Covered Species are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. Each morning prior to beginning Covered Activities and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) and/or construction foreman/manager shall thoroughly inspect them for Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately if any worker discovers that Covered Species have become trapped. If at any time a trapped Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per the Relocation Plan described in Condition of Approval 8.12.
- 8.9.1. If open holes, sumps, trenches or excavations cannot be covered then a temporary barrier shall be installed around any trenches, holes, sumps, or other excavations to prevent Covered Species from becoming trapped.
- 8.10. Inspection of Pipes and Culverts. All construction pipes, culverts, or similar structures that are stored at the Project for one or more overnight periods shall be securely capped prior to storage or inspected by the Designated Biologist before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a Covered Species is discovered inside a pipe by the Designated Biologist or anyone else, the Covered Species shall be allowed to



leave its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area and in accordance with the Condition of Approval 8.12.

- 8.11. Vehicle and Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Permittee shall contact the Designated Biologist to determine if the Designated Biologist can safely move the Covered Species in Accordance with Condition of Approval 8.12.
- 8.12. Covered Species Relocation Plan. The Designated Biologist(s) shall prepare a Covered Species Relocation Plan (Relocation Plan) to be submitted for CDFW approval 30 days prior to the initiation of construction. The Relocation Plan shall include, but not be limited to, pre-activity survey methodology appropriate for the season, hand excavation, capture, handling, and relocation methods; and identification of where the individuals will be relocated to. The relocation areas shall be identified by the Designated Biologist(s) based upon best suitable habitat available and time of year and approved by CDFW prior to the start of Covered Activities. The Relocation Plan shall be submitted to CDFW for review and approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.
- 8.13. Access Roads. The Designated Biologist(s) shall inspect the entire access route(s) for Covered Species each day when Covered Activities. Inspections shall occur in the morning prior to Project related vehicle access (unless Project related vehicle traffic occurs prior to sunrise) and in the afternoon prior to Project related vehicles exiting the Project Area. If a Designated Biologist finds a dead Covered Species on the access route, Permittee shall consult with CDFW to determine appropriate contingency measures and shall implement the measures determined appropriate by CDFW.
- 8.14. Vegetation Marked for Protection. Vegetation shall be removed prior to grading. Prior to clearing and grubbing operations, the Designated Biologist shall clearly mark vegetation within the Project Area that shall be avoided. Vegetation outside the Project Area shall not be removed.
- 8.15. Vegetation Removal Methods. Where possible, hand tools (e.g., trimmer, chain saw, etc.) shall be used to trim or remove vegetation. Any equipment used to remove vegetation shall be set to a height of six inches or higher to prevent inadvertent injury or mortality to Covered Species. All vegetation removal shall be monitored by the Designated Biologist to minimize impacts to the Covered Species.
- 8.16. Flag Covered Species Nest. Nests or suitable areas for Covered Species nesting should be marked by the Designated Biologist within a reasonable dispersal distance of the Project Area to alert biological and work crews to their presence each season. Where feasible, an avoidance buffer of 250 feet (the distance may be altered at the discretion of the Designated Biologist in consultation with CDFW) or greater around areas shall be maintained using

wildlife exclusion fencing or environmentally sensitive area fencing as specified in this Agreement. Nests in areas of impact shall be excavated by hand to allow the detection and relocation of wildlife as necessary.

- 8.17. Remove Temporary Flagging, Fencing, and Barriers. Permittee shall remove all temporary flagging, fencing, erosion control, temporary work platforms, temporary access road materials, and/or barriers from the Project Area and vicinity of the stream upon completion of Project activities.
  - 8.18. Geo-Textile Fabric Restriction. No permanent geo-textile material or filter fabric of any kind is permitted for installation in any portion of this Project unless specified in the Project Description of this ITP. Temporary use of geo-textile material or filter fabric is permitted provided it is removed each season, additional timeframes of use may be authorized upon written request and written approval from CDFW.
  - 8.19. Geo-Textile and Gravel Fill Removal. All temporary geo-textile and gravel fill shall be removed upon the completion of work each season and upon final completion of the Project, additional timeframes of use may be authorized upon written request and written approval from CDFW.
  - 8.20. Hydroseeding. All disturbed areas shall be re-graded and hydroseeded. Hydroseed shall not contain invasive exotic plant species. Prohibited exotic plant species include those identified in the California Exotic Pest Plant Council's database, which is accessible at: <http://www.cal-ipc.org/paf/>.
9. **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 either purchase eight acres of Alameda whipsnake credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2), OR shall provide for both the permanent protection and management of a minimum of eight acres of Habitat Management (HM) lands (assuming the HM lands supports both Covered Species) pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Compensatory habitat shall include upland foraging and dispersal habitat for Covered Species through preservation, restoration, enhancement, and/or creation of habitat that is the same or better quality as upland habitat and the riparian habitat that will be impacted. 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 10 below for all uncompleted obligations. The Permittee shall also restore on-site 3.77 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.6 below.



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

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$42,500.00 per acre; for eight acres: **\$384,200.00**. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
  - 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at **\$35,813.00**;
  - 9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at **\$21,300.00**;
  - 9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$13,802.00 per acre; for eight acres: **\$110,415.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
  - 9.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at **\$3,000.00**.
  - 9.1.6. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.6, calculated at \$2,175.00 per acre; for 3.77 acres: **\$8,199.00**.
- 9.2. Covered Species Credits. Permittee shall purchase eight acres of Alameda whipsnake 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 10 below.

OR:

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

- 9.3.1. 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);

- 9.3.2. 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;
- 9.3.3. 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;
- 9.3.4. 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.
- 9.3.5. 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;
- 9.3.6. 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, vegetation and invasive species management, annual protocol-level Covered Species surveys,



and rangeland monitoring. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

- 9.4. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 8.3, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. 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.

- 9.4.1. 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 30 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 30-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;

- 9.4.2. 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.
- 9.4.2.1. 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.
- 9.4.2.2. 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: 10 Percent Contingency.
- 9.4.2.3. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.
- 9.4.2.4. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
- 9.4.2.5. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.
- 9.4.3. 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.
- 9.5. 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.
- 9.6. On-Site Habitat Restoration Plan. The Permittee shall submit an On-Site Habitat Restoration Plan (Plan) to CDFW for review, comment and/or final written acceptance 30 days prior to the initiation of construction. The Plan shall be prepared by a Designated Biologist or



Restoration Specialist, and address recovery or enhancement of 3.061 acres of covered species habitat on-site.

The Plan shall install plantings derived from locally available genotypes, the following species will be required sycamore, oak, buckeye, black walnut, cottonwood and alder, other tree species known to occur at the Project may also be incorporated provided the other species are addressed. The Permittee shall monitor the survival and vigor of on-site tree plantings for a period of 10 years to ensure attainment of a 75% survivorship of all sycamore, oak and black walnut plantings. All other tree species are subject to a 50% survivorship over the period of 10 years. If success criteria are not achieved within 10 years, additional years of enhancement and monitoring may be required as determined by CDFW.

The Permittee shall be responsible for the replacement of trees removed or impacted as a result of the Project. Impacted trees may include limbed trees or trees of which work is conducted over their drip line, observation of these trees over time will determine the level of impact that has occurred. All trees impacted as a result of the Project shall be replaced at the follow ratios; California black walnut 6:1, oak species 4:1, sycamores 6:1, native California tree species 2:1, non-native species 1:1. Tree plantings can occur on-site or at a selected off-site location, approved in advanced by CDFW. Permittee will purchase stock from nurseries known for avoiding *Phytophthora sp.*, to the most extent practicable. The Permittee must use seed material and/or on-site propagation material for use in replanting. All trees shall be planted in various container sizes, approved in advance by CDFW, acorns or seed plantings may be authorized upon approval from the CDFW Representative.

Shrubs, low canopy and ground cover species shall be subject to a reference site comparison of plant establishment over a period of 10 years.

Reference Sites. Prior to initiating ground disturbance, Permittee shall establish a representative number of transects within disturbed areas ("treatment") which will each be associated with a reference ("control") site (*i.e.*, site within intact natural habitat that will be used as a model for restoration activities). Each treatment-control transect set shall be appropriately-placed and numbered for identification purposes. The slope, aspect, and hydrological conditions shall be similar for both the site to be restored and the reference site. To document existing plant communities, Permittee shall photograph the treatment and control sites during the spring (March to June) when most flowering plants are in bloom. Permittee shall also evaluate species composition at the reference site. Permittee shall use information collected at the reference site to guide restoration activities.

Performance Standards. To be considered a successful restoration site, Permittee shall meet the following performance standards:

- Gravel shall be removed from restored areas;
- Permittee may import and place up to three (3) feet of soil in compacted areas, such as former roads and turbine pads, to increase the potential for vegetation establishment. Fill shall not be placed for purely aesthetic purposes, as fill has the potential to result in

unnecessary and avoidable take of Covered Species. The upper one (1) foot of fill shall consist of topsoil;

- Imported fill soils shall be limited to weed-free topsoil.
- Minor re-contouring may be conducted; however, Permittee shall limit grading, compaction, fill, and all other earthmoving activities to the Project Area. Soils shall be protected from wind erosion using a biodegradable erosion control blanket or appropriate mulch cover (i.e. hydroseed or mulch) until vegetation is established. Seed shall be applied prior to October 31, when feasible. If feasible, seed shall be applied immediately prior to the first rain event;
- Permittee shall pre-designate each restoration area for establishment of a specific native vegetation community, based on slope, aspect, hydrological conditions, and if applicable, adjacent native vegetation. The seed mix for each restoration site shall be tailored to achieve the species composition of the pre-designated vegetation community. The distribution of vegetation communities within the restoration area shall be roughly proportionate to any native vegetation communities impacted. Following restoration, the species composition of each restoration site shall closely match that of the associated reference site;
- Seed mixes shall include only locally native species at a ratio appropriate to the site, with an emphasis on local, native species to the area, local native wildflower may also be included in the mix. Seed may be collected from within the Project Area. Additional seed shall be sourced from within 50 miles of the Project Area (i.e., original genetic material shall have been collected within this radius); however, the seed may be purchased from a seed farm outside of this area. For seeding and mulching exposed slopes, the seed blend may include one or two sterile non-native perennial grass species.
- Permittee shall complete seeding as soon as possible, prior to October 31, as feasible. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.
- No more than 20% of the vegetation in each restoration site shall consist of species designated as high or moderate invasive plants in the Cal-IPC's *California Invasive Plant Inventory Database* (<http://www.cal-ipc.org/paf/>). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner. Reference sites may be used in lieu of achieving specific milestones noted in this ITP upon written submission and approval from CDFW, which may be in the form of an amendment to this ITP.

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. 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 (<http://www.cal-ipc.org/paf/>).

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

- 10.1. Security Amount. The Security shall be in the amount of **\$562,927.00**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 10.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline. The Security shall be provided to CDFW no less than 30 days before Covered Activities begin.
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
  - Written documentation of the acquisition of the HM lands;
  - Copies of all executed and recorded conservation easements;
  - Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and

- Timely submission of all required reports.
- Attainment to the On-Site Habitat Restoration Plan Milestones as specified in condition of approval 9.6.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

**Amendment:**

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

**Stop-Work Order:**

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

**Compliance with Other Laws:**

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

**Notices:**

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

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

Incidental Take Permit  
No. 2081-2018-085-03  
CALIFORNIA DEPARTMENT OF TRANSPORTATION  
STATE ROUTE 84 NILES CANYON SAFETY IMPROVEMENTS PROJECT



Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2018-085-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Gregg Erickson, Regional Manager  
California Department of Fish and Wildlife – Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
Telephone (707) 428-2002

and a copy to:

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

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

Robert Stanley, Senior Environmental Scientist (Specialist)  
California Department of Fish and Wildlife – Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
Telephone (707) 428-2093

**Compliance with CEQA:**

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, California Department of Transportation. (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Niles Canyon Safety Improvements Project Environmental Impact Report (EIR) (SCH No.: 2015092075) adopted by the California Department of Transportation on January 18, 2018. At the time the lead agency adopted the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

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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, Niles Canyon Safety Improvements Project EIR (SCH No.: 2015092075), the results of the 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 8.74 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



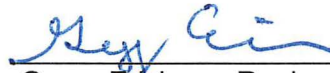
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on 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	Biological Study Area/Project Location (1 Page)
FIGURE 2	Project Impacts and Fill Table (4 Pages)
FIGURE 3	Project Elements Maps 1 to 13 (13 Pages)
FIGURE 4	AWS Habitat Impacts Maps 1 to 13 (13 Pages)
FIGURE 5	Tree Removal Maps 1 to 13 (13 Pages)
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 1-8-20



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:

1/14/2020

Printed Name:

Jack Siaw

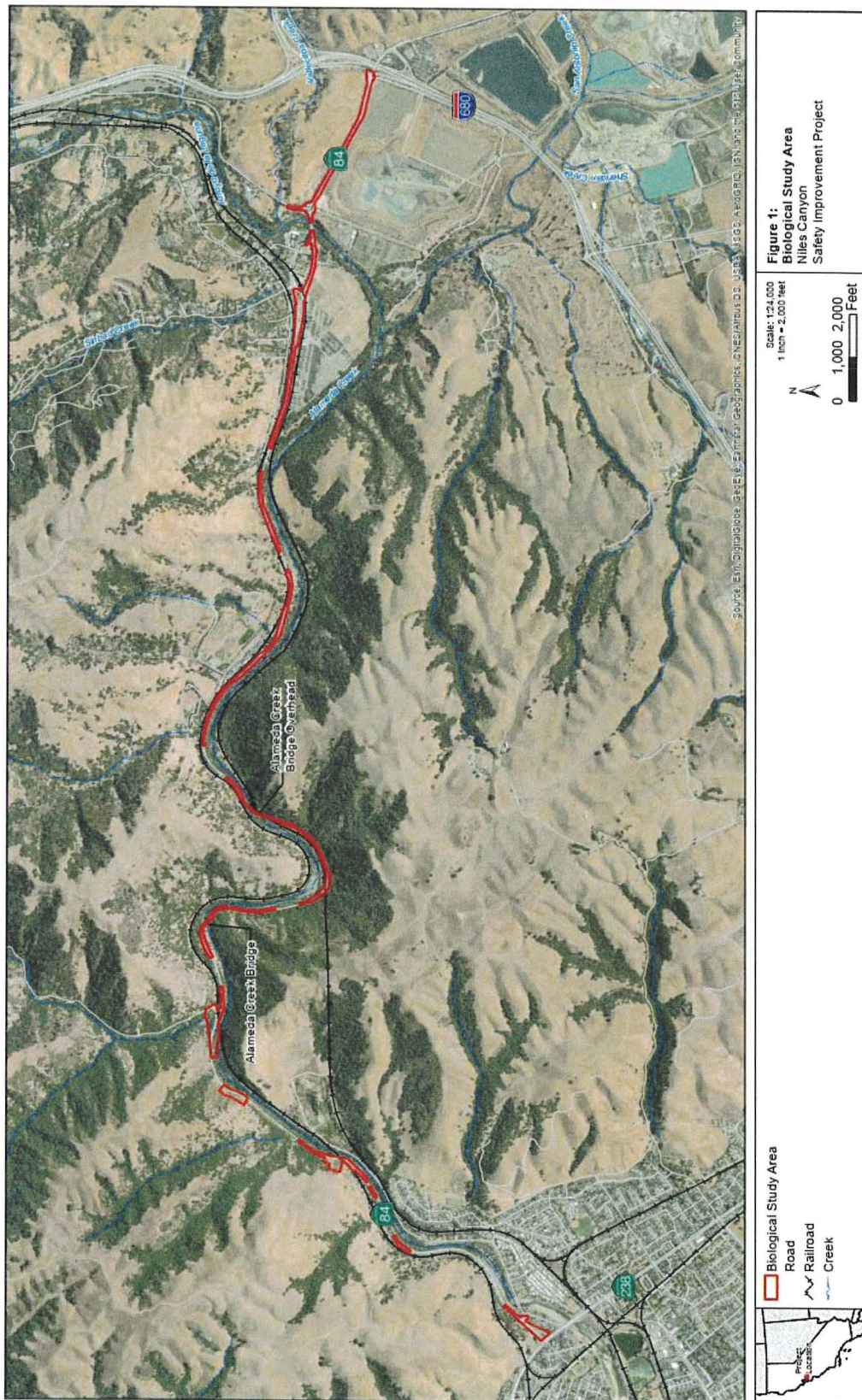
Title:

Proj. Manager

Incidental Take Permit  
No. 2081-2018-085-03

CALIFORNIA DEPARTMENT OF TRANSPORTATION  
STATE ROUTE 84 NILES CANYON SAFETY IMPROVEMENTS PROJECT

Figure 1: Biological Study Area/Project Location





Summary of All Project Elements and Impacts

<b>Project Element</b>	<b>Fill Material</b>	<b>Dimension</b>	<b>Total Fill Volume (Yd<sup>3</sup>)</b>	<b>Excavated / Removed Volume (Yd<sup>3</sup>)</b>	<b>Temp Impact (acres)</b>	<b>Perm Impact (acres)</b>
Utility Pole Removal/Relocation (Approx. 14 poles)	Wood Pole	Each 2' diameter hole, approx. 7' deep	11.34	11.34	0.032	<0.001
Signalization at Main Street (4 signals, 2 stop bars)	Concrete base	2.5' diameter x 6' deep	4.5	4.5	0.01	<0.001
Signalization at Pleasanton-Sunol Road (7 signals)	Concrete base	(6) 2.5' diameter x 6' deep (1) 3.5' diameter x 7' deep	9.1	9.1	0.003	<0.001
Active Warning System Button posts (4) Beacon posts (4) Control cabinet (3)	Concrete bases for posts and cabinets	1.5' x 1.5' deep 2.5' x 6.5' deep 4' x 1.5' x 2.5'	4.6	4.6	0.006	<0.001
Lighting (16)	Concrete base	2.5' diameter x 5' deep	14.5	14.5	0.006	0.002
Speed Feedback Signs (15)	Steel pole and dirt	0.67' diameter x 5' deep	1	1	0.014	0.002
Dynamic Active Warning System (2) Post Cabinet footing	Post Concrete	0.42' x 0.42' x 5' 2.5' x 2.5' x 5'	2.366	<1	0.001	<0.001
Relocate Flashing Beacons	Post Cabinet	2.5' x 8.5' deep 3.5' x 2.5' x 5'	3.2	2.5	0.003	<0.001

Project Element	Fill Material	Dimension	Total Fill Volume (Yd <sup>3</sup> )	Excavated / Removed Volume (Yd <sup>3</sup> )	Temp Impact (acres)	Perm Impact (acres)
Conduits for all Electrical Work	Conduit & backfilled dirt	5,400' x 2' x 3'	1,200	1,200	0.315	0.000
Install and Remove Traffic Signs (29)	Sign posts	0.3 x 0.3 x 3.5'	0.33	0.33	0.011	<0.001
Low Speed Curve Improvements						
<i>Correcting Super Elevation &amp; Roadway Widening</i>	Asphalt AB-2 AS-3	500 linear feet 3,000 ft <sup>2</sup>	372	20	0.069	0.172
<i>Rock Cuts</i>	N/A	73 linear feet 8-10' high	N/A	70	0.050	0.017
<i>Barrier Installation N1CL STA 39+80 to 42+90</i>	Concrete	310 linear feet	75	N/A	0.195	0.326
<i>Drainage Extension STA 39+45</i>	24" Culvert backfilled with dirt	10 linear feet	1.48	1.48	0.010	<0.001
Rock Fall Protection System	Cable net drapery	250' x 40'	N/A	N/A	1.597	0.537
Shoulder Widening						
Sims Park/Quarry Road (STA 105+80 to 116+80)	Road base, Asphalt, concrete pavement	1,100' x 3.2'	275	275	0.242	0.265
Silver Springs (STA 165+80 to 189+10)	Road base, Asphalt, concrete pavement	2,330' x 3.2'	580	580	0.022	0.000
Paloma Way (STA 223+20 to 243+20)	Road base, Asphalt, concrete pavement	2,000' x 3.2'	498	498	0.498	0.311



<b>Project Element</b>	<b>Fill Material</b>	<b>Dimension</b>	<b>Total Fill Volume (Yd<sup>3</sup>)</b>	<b>Excavated / Removed Volume (Yd<sup>3</sup>)</b>	<b>Temp Impact (acres)</b>	<b>Perm Impact (acres)</b>
Replace Barrier Alameda Creek Bridge Overhead	Concrete, pavement	2,000 linear feet	970	222	0.000	0.000
Midwest Guardrail System Installation/MBGR Replacement	Concrete and Guardrail	8,241 linear feet	425 of concrete	655	0.946	0.000
Replace Stonybrook Box Culvert with new bridge						
<i>Bridge Abutments (2)</i>	Concrete	60' x 80' x 12.5	2,225 concrete 158 backfill	395	0.367	0.220
<i>Retaining Walls/ Wingwalls (2)</i>	Rebar, Concrete	100' x 1' x 10'	74	7.5	1.010	0.002
<i>Temporary Falsework and pads (each side of bridge)</i>	Timber pads, gravel, wood	54' x 58'	450	N/A	0.090	0.000
<i>Rock-slope Protection</i>	Fabric, Rocks	80' x 20' x 5'	296	Up to 148	N/A	N/A
<i>Shoulder Transition (2)</i>	Asphalt AB-2 AS-3	450' x 17' x 2.1'	620	620	0.153	0.173
<i>Drainage and Water Quality</i>	N/A	270 linear feet	N/A	N/A	N/A	N/A
<i>New bridge piles (24 total)</i>	Concrete	2' diameter 30' long	85	~40	0.009	0.002
<i>Upstream Berm for creek diversion</i>	Plastic, Gravel bags	38' x 14' x 5'	99	N/A	0.045	0.000
<i>Creek Diversion pipe</i>	Plastic pipe	1.5' diameter x 140' long	10	N/A	0.009	0.000
<i>Cutoff wall</i>	N/A	2' x 2' x 38'	N/A	5.6	0.079	0.000
<i>Area Impacted by Temporary Creek Diversion</i>	N/A	140' x				

<b>Project Element</b>	<b>Fill Material</b>	<b>Dimension</b>	<b>Total Fill Volume (Yd<sup>3</sup>)</b>	<b>Excavated / Removed Volume (Yd<sup>3</sup>)</b>	<b>Temp Impact (acres)</b>	<b>Perm Impact (acres)</b>
<i>Demo of Existing Box Culvert</i>	Concrete	16' x 60' x 12'		425	0.003	0.000
Staging area	No fill needed	865' x 20'	N/A	N/A	0.350	0.000

**Note: Project elements overlap. Therefore, the sum of the impacts shown in this table will be greater than the total impacts shown in ITP application.**



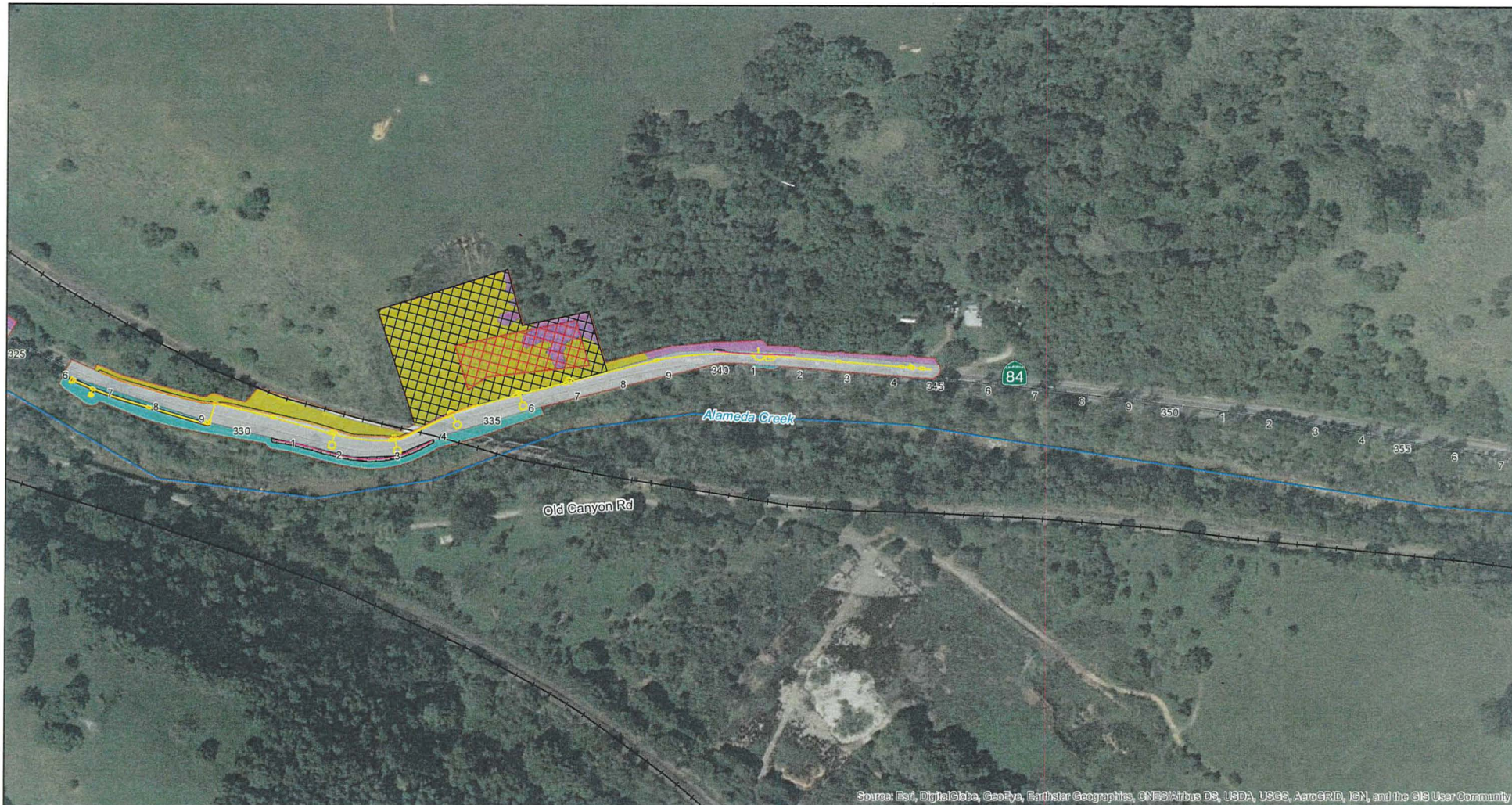


**Figure 6:**  
Project Elements, Land  
Cover Types, and Impacts  
Niles Canyon  
Safety Improvement  
Project Map 1 of 13

















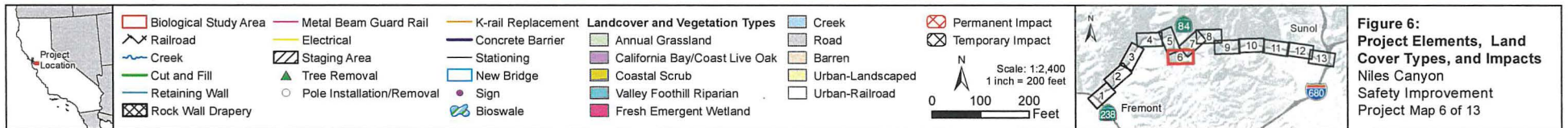
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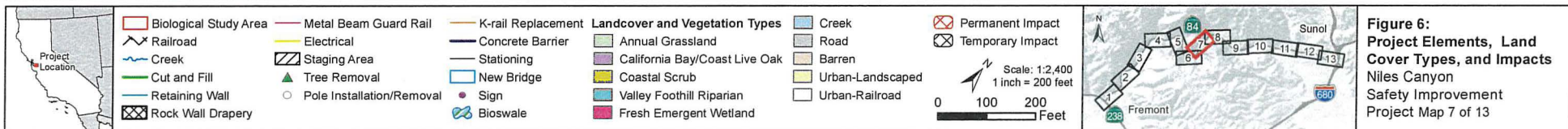




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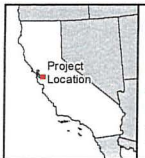








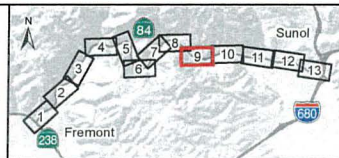




- |                       |                           |                    |
|-----------------------|---------------------------|--------------------|
| Biological Study Area | Metal Beam Guard Rail     | K-rail Replacement |
| Railroad              | Electrical                | Concrete Barrier   |
| Creek                 | Staging Area              | Stationing         |
| Cut and Fill          | Tree Removal              | New Bridge         |
| Retaining Wall        | Pole Installation/Removal | Sign               |
| Rock Wall Drapery     | Bioswale                  |                    |

- Landcover and Vegetation Types**
- |                               |                  |
|-------------------------------|------------------|
| Annual Grassland              | Creek            |
| California Bay/Coast Live Oak | Road             |
| Coastal Scrub                 | Barren           |
| Valley Foothill Riparian      | Urban-Landscaped |
| Fresh Emergent Wetland        | Urban-Railroad   |

- |                  |   |
|------------------|---|
| Permanent Impact | <br>Scale: 1:2,400<br>1 inch = 200 feet<br>0 100 200 Feet |
| Temporary Impact |   |

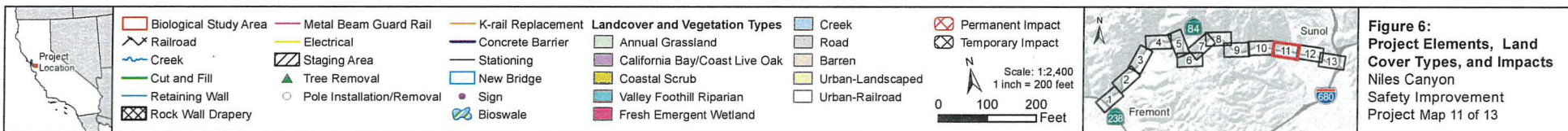


**Figure 6:**  
**Project Elements, Land**  
**Cover Types, and Impacts**  
 Niles Canyon  
 Safety Improvement  
 Project Map 9 of 13









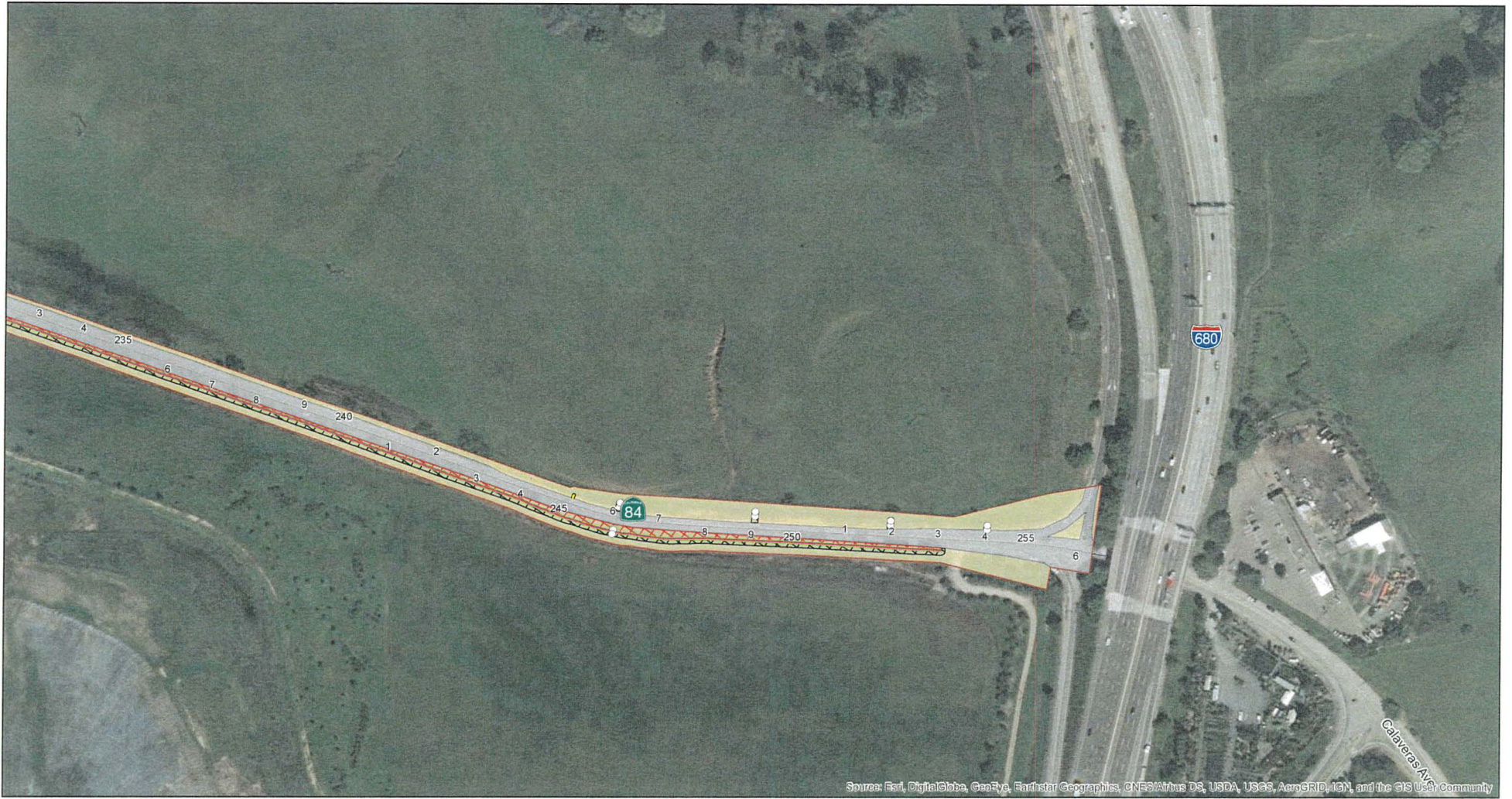




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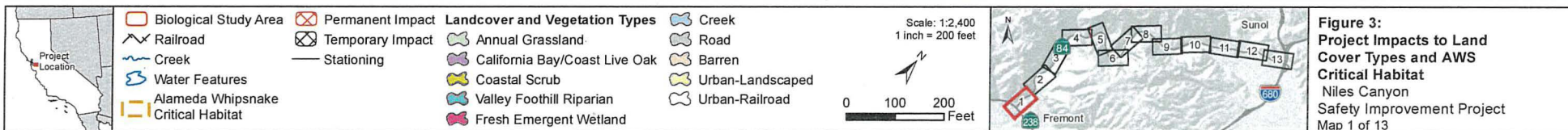








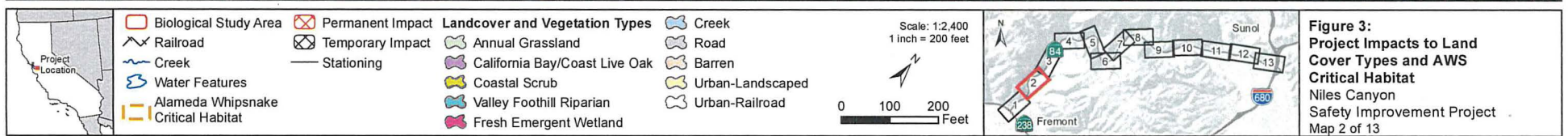
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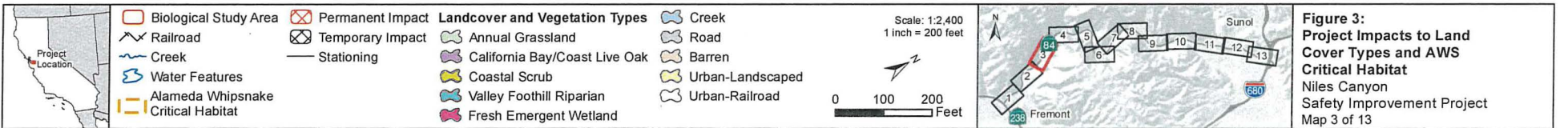
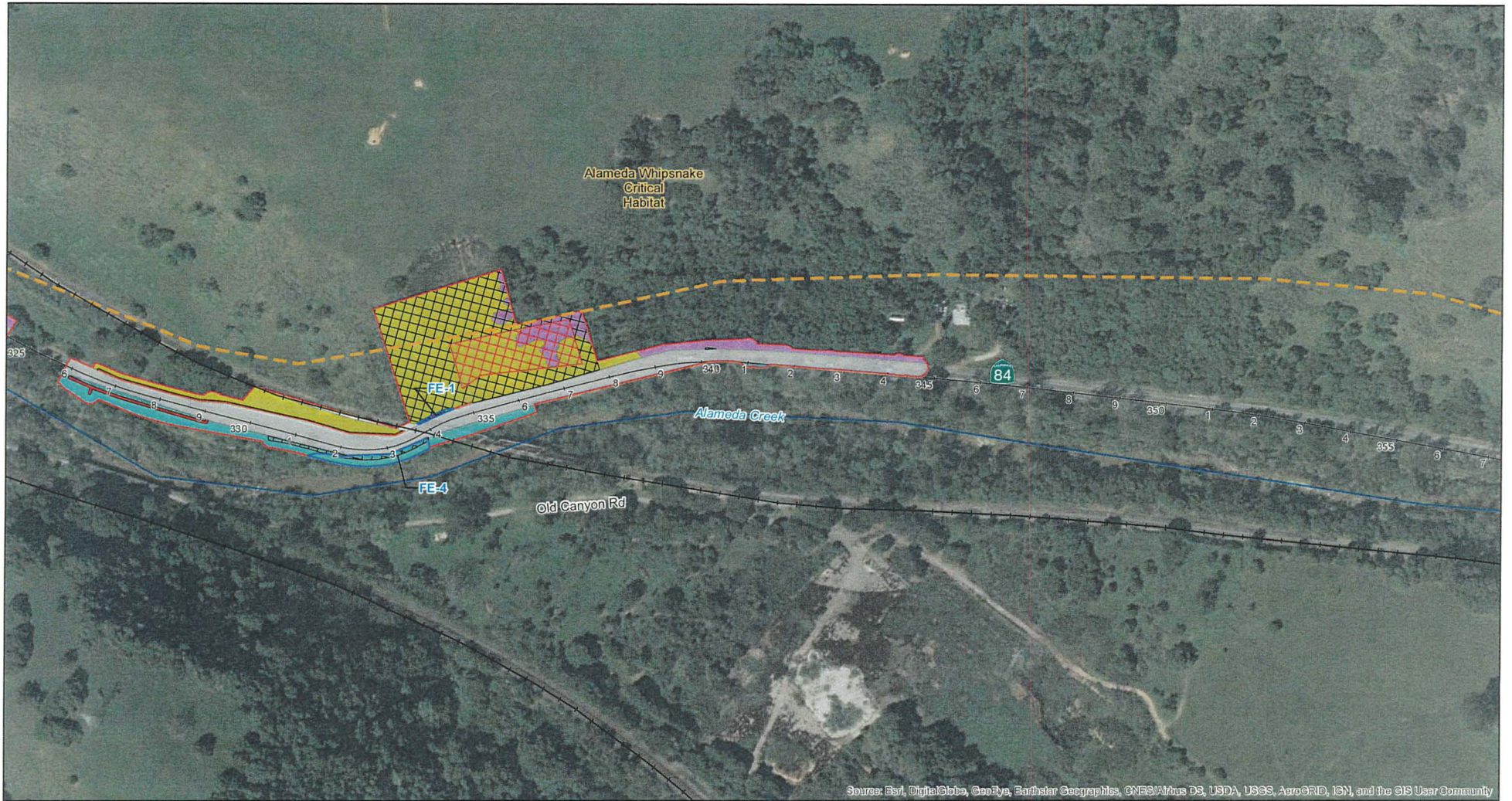




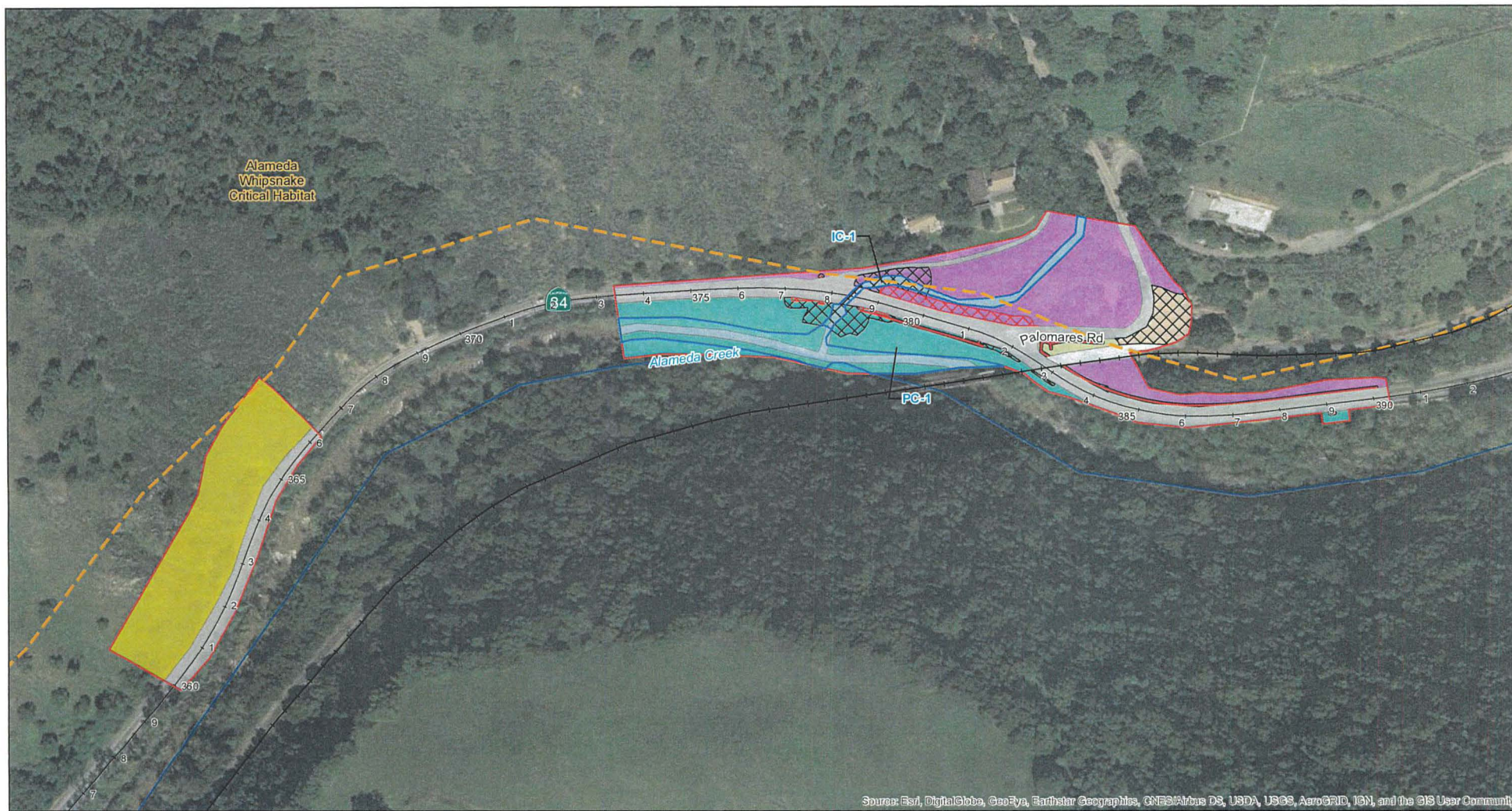
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Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

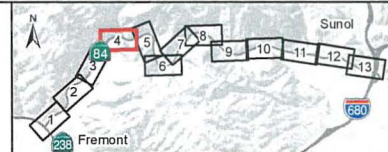
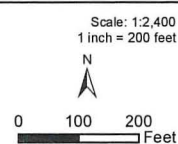


- Biological Study Area
- Railroad
- Creek
- Water Features
- Alameda Whipsnake Critical Habitat

- Permanent Impact
- Temporary Impact
- Stationing

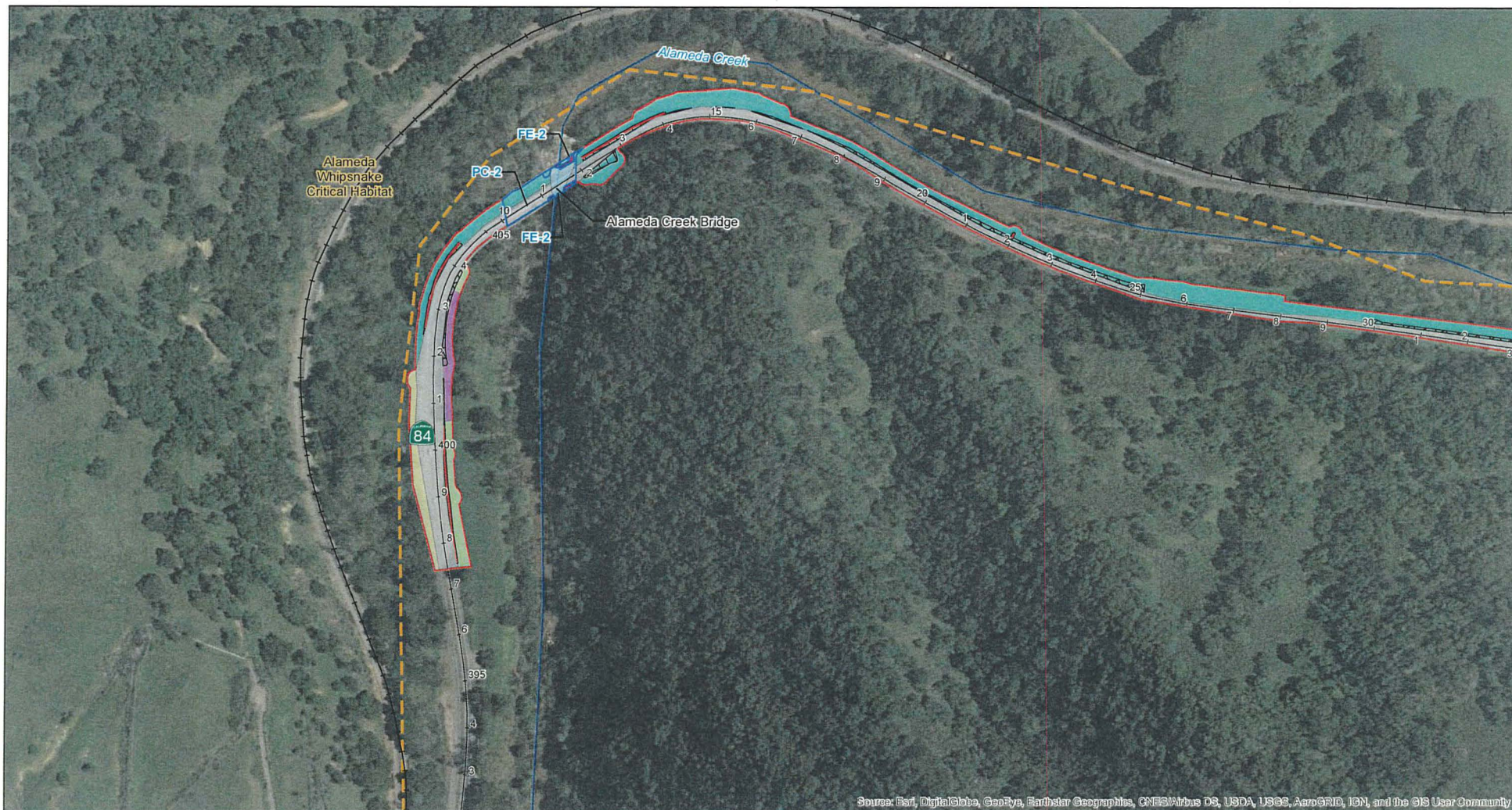
- Landcover and Vegetation Types**
- Annual Grassland
  - California Bay/Coast Live Oak
  - Coastal Scrub
  - Valley Foothill Riparian
  - Fresh Emergent Wetland

- Creek
- Road
- Barren
- Urban-Landscaped
- Urban-Railroad

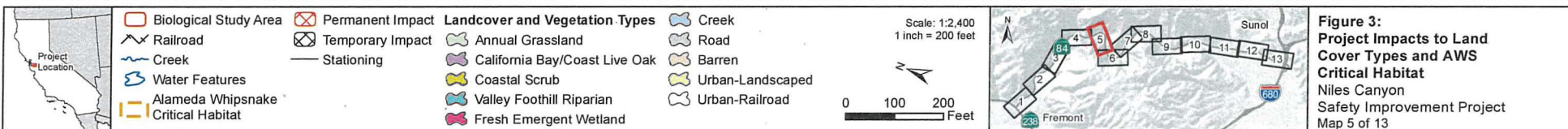


**Figure 3:**  
Project Impacts to Land  
Cover Types and AWS  
Critical Habitat  
Niles Canyon  
Safety Improvement Project  
Map 4 of 13

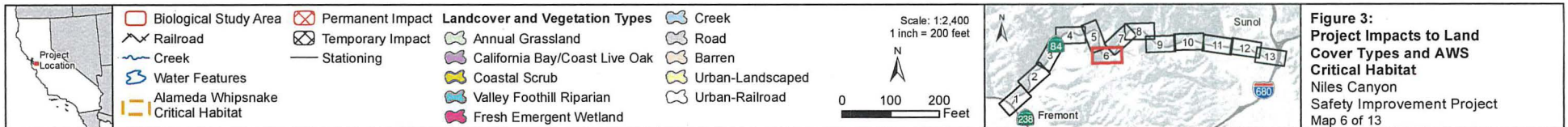




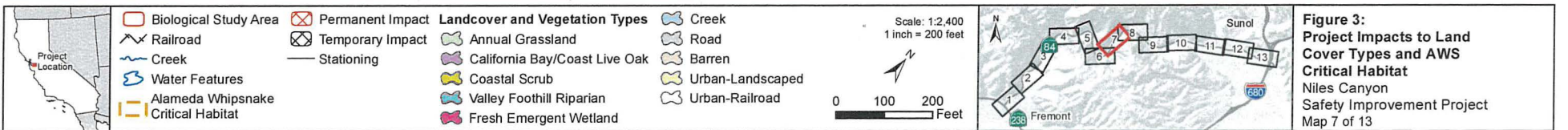
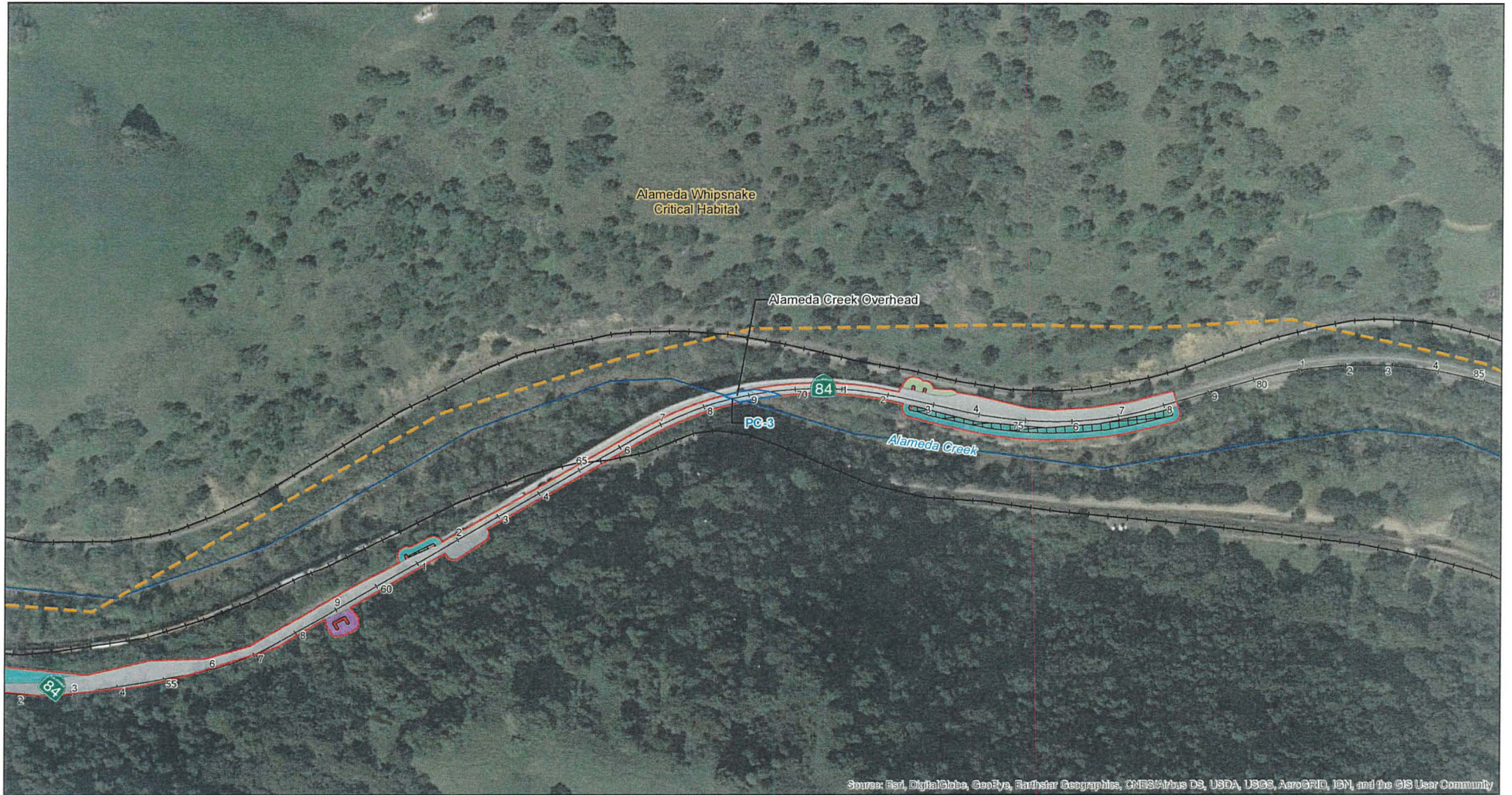
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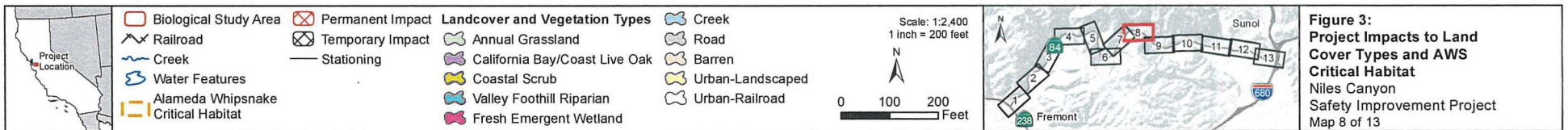








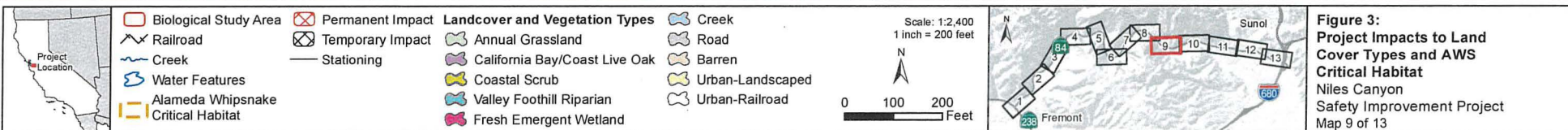




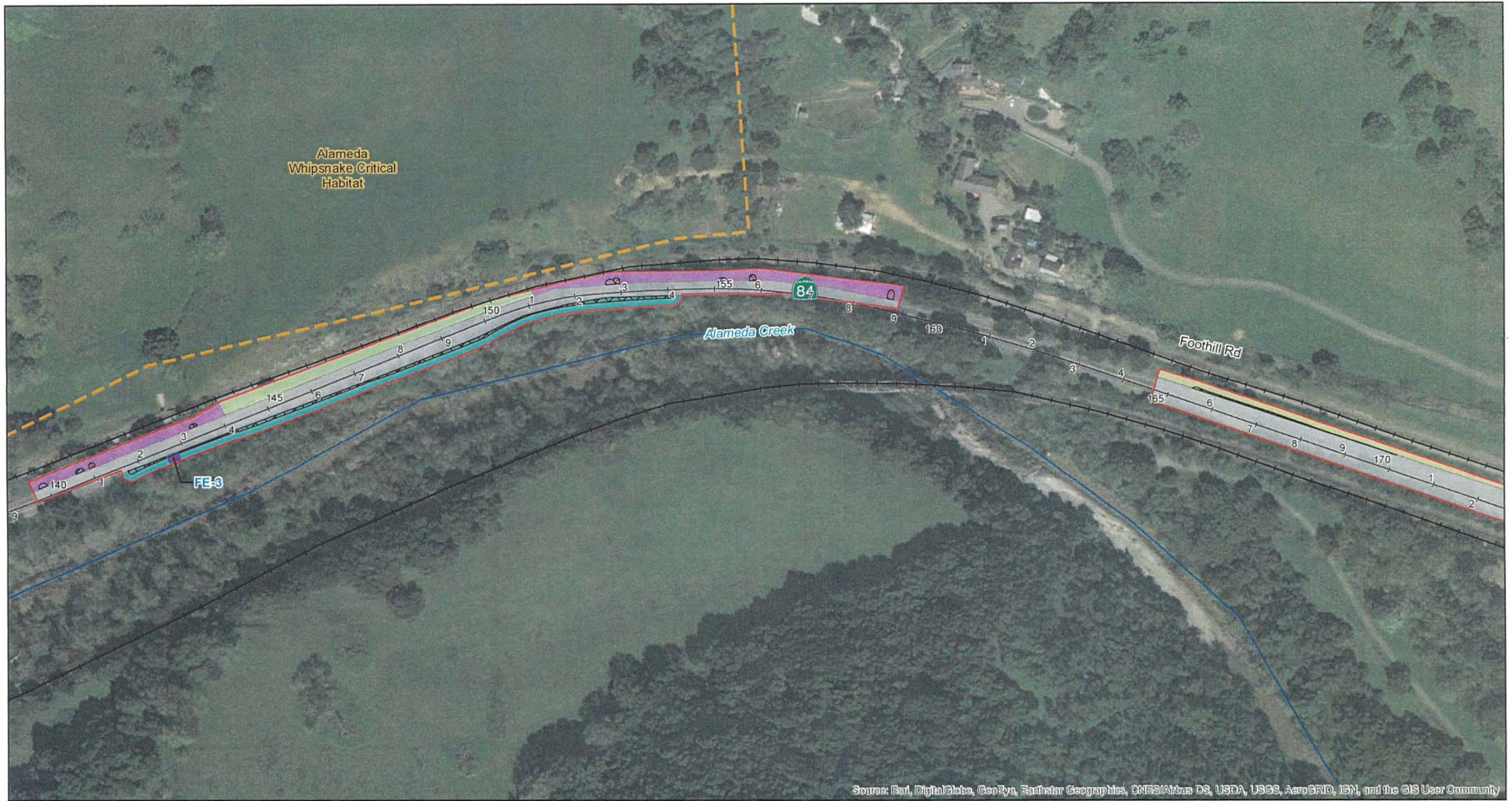




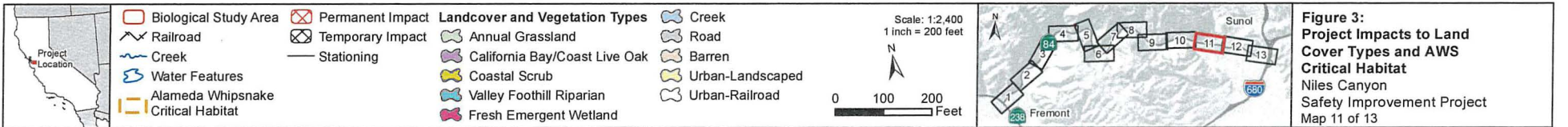
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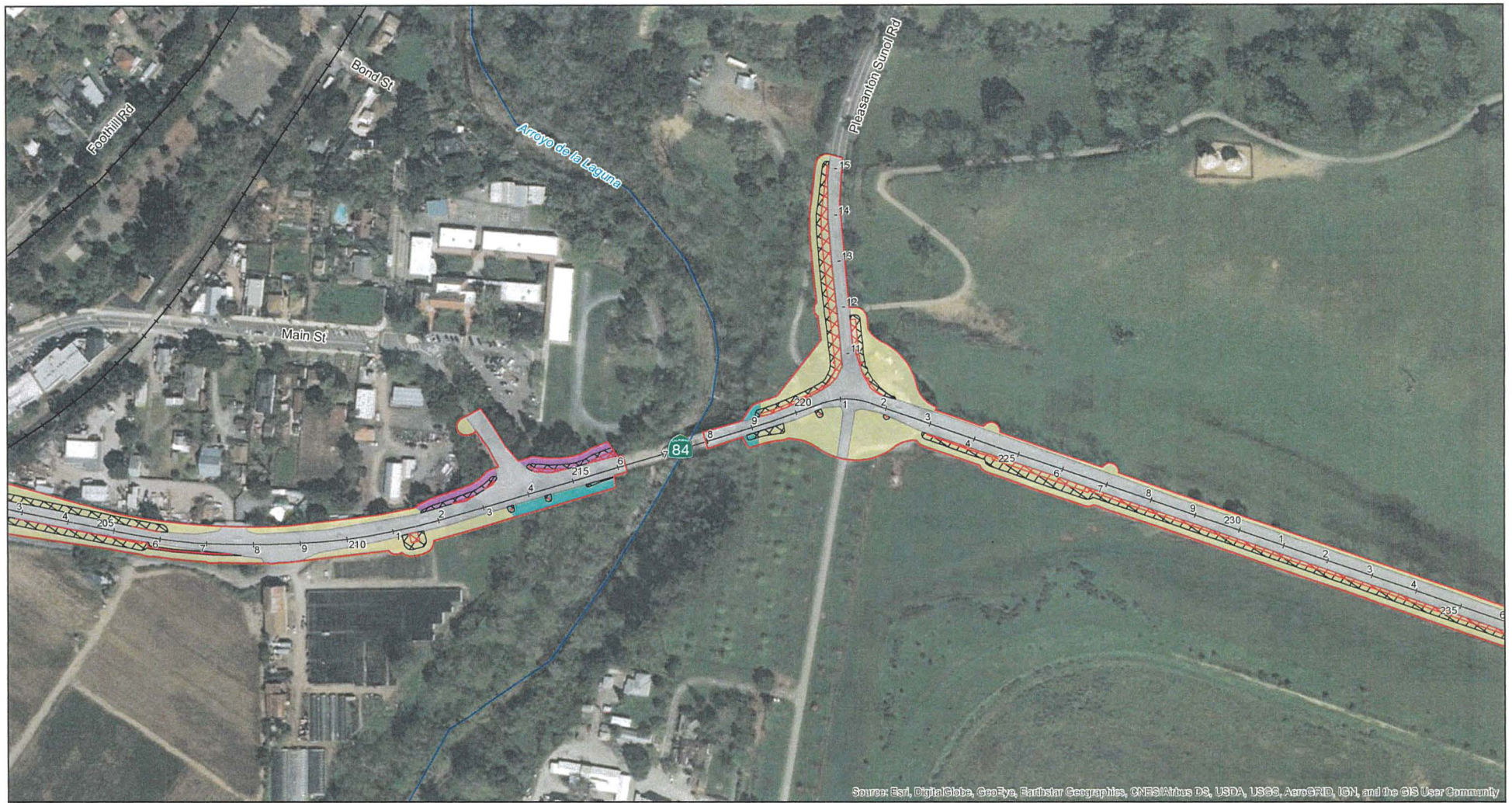




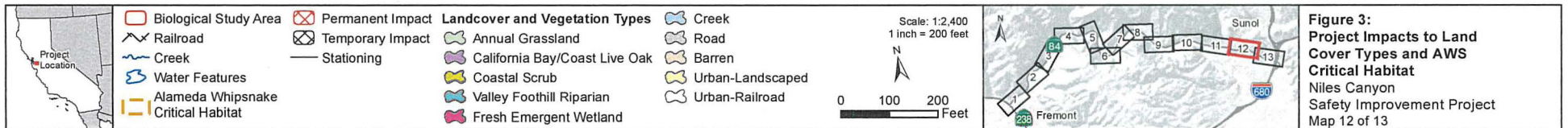








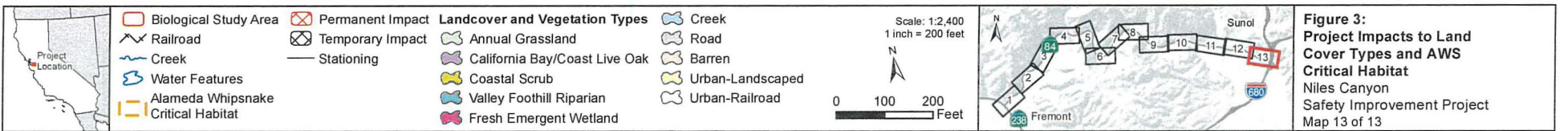
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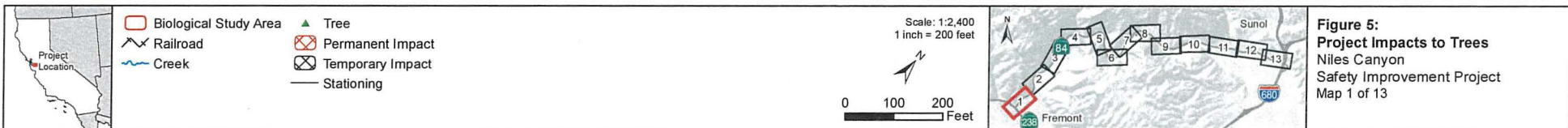
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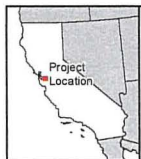
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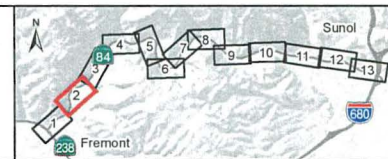
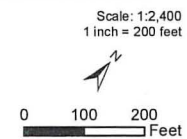




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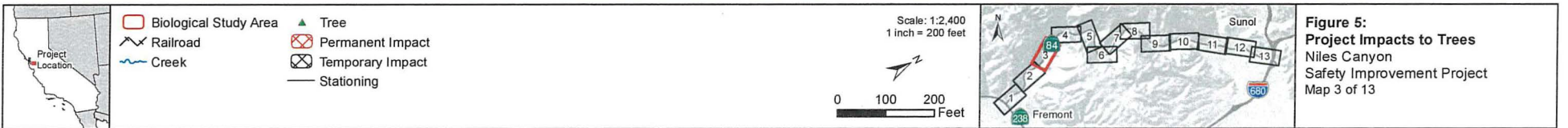


- Biological Study Area
- ▲ Tree
- Railroad
- Permanent Impact
- Creek
- Temporary Impact
- Stationing

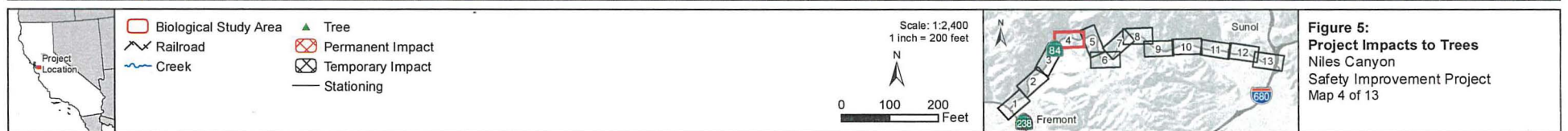
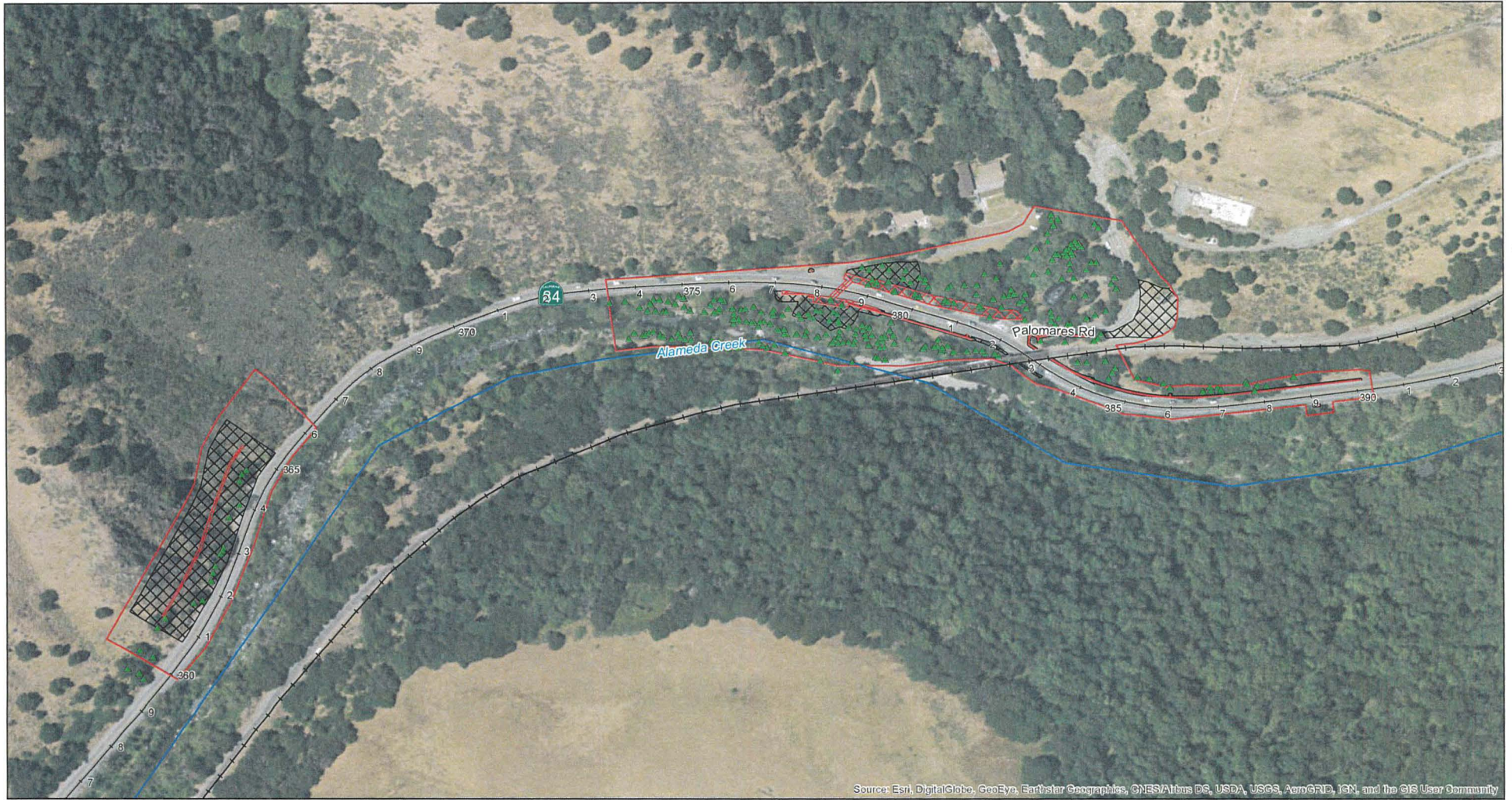


**Figure 5:**  
Project Impacts to Trees  
Niles Canyon  
Safety Improvement Project  
Map 2 of 13

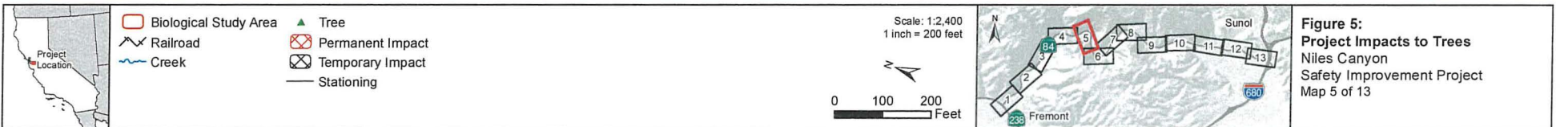








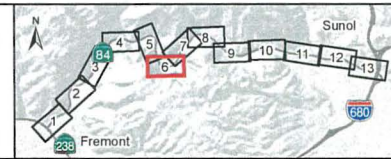
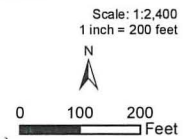






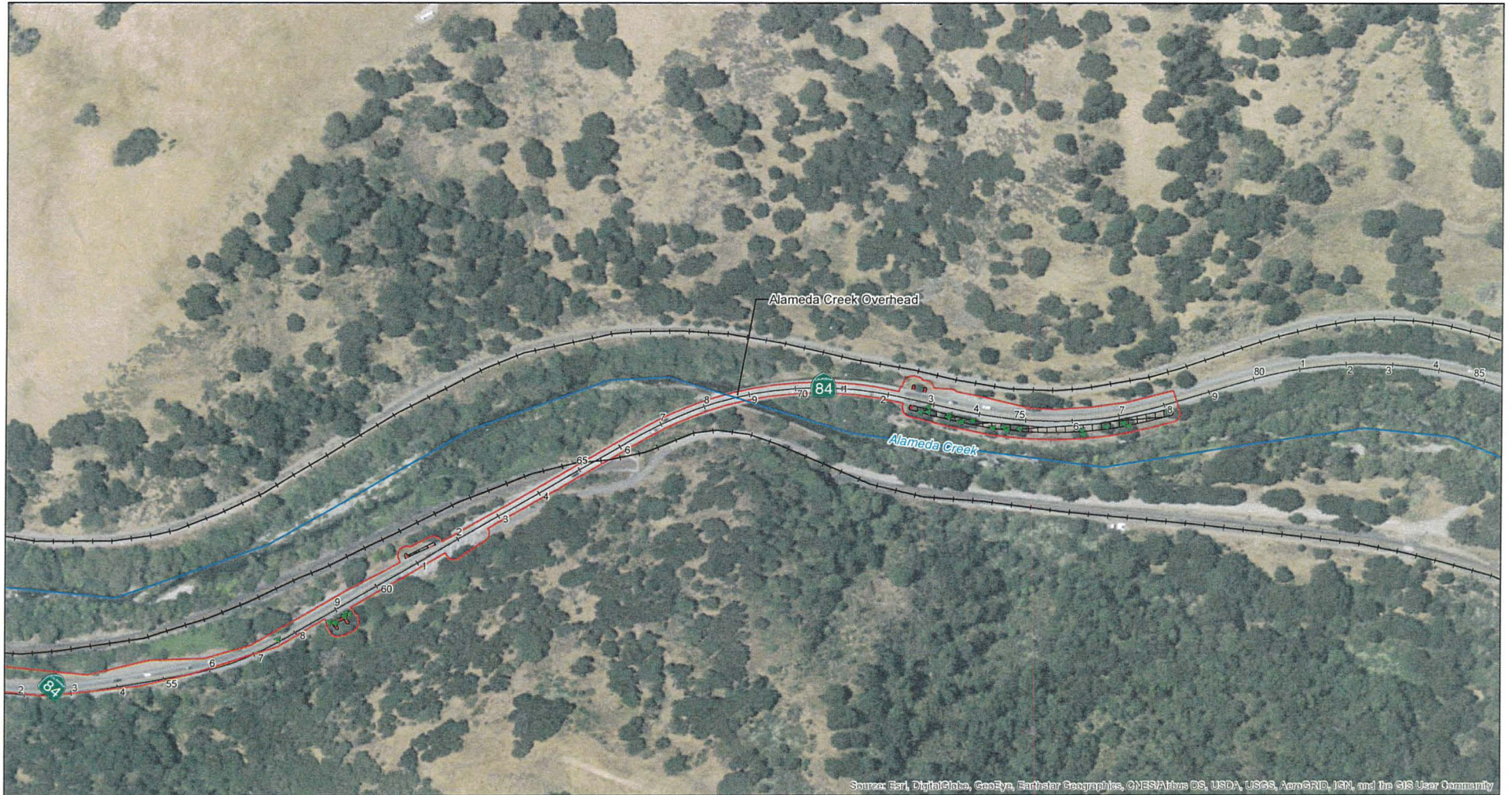


- Biological Study Area
- Railroad
- Creek
- Tree
- Permanent Impact
- Temporary Impact
- Stationing

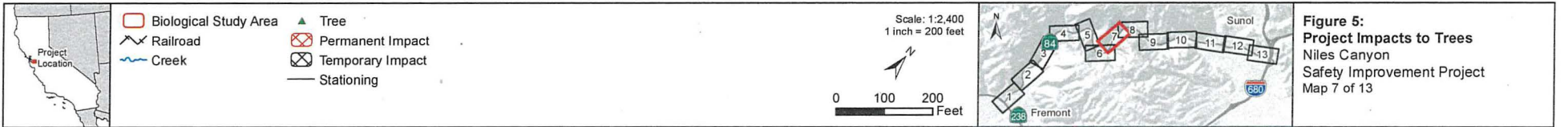


**Figure 5:**  
Project Impacts to Trees  
Niles Canyon  
Safety Improvement Project  
Map 6 of 13





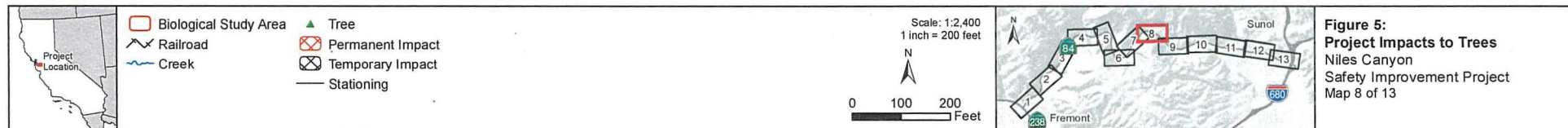
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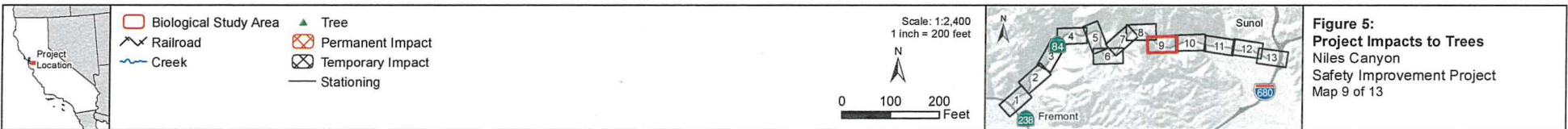




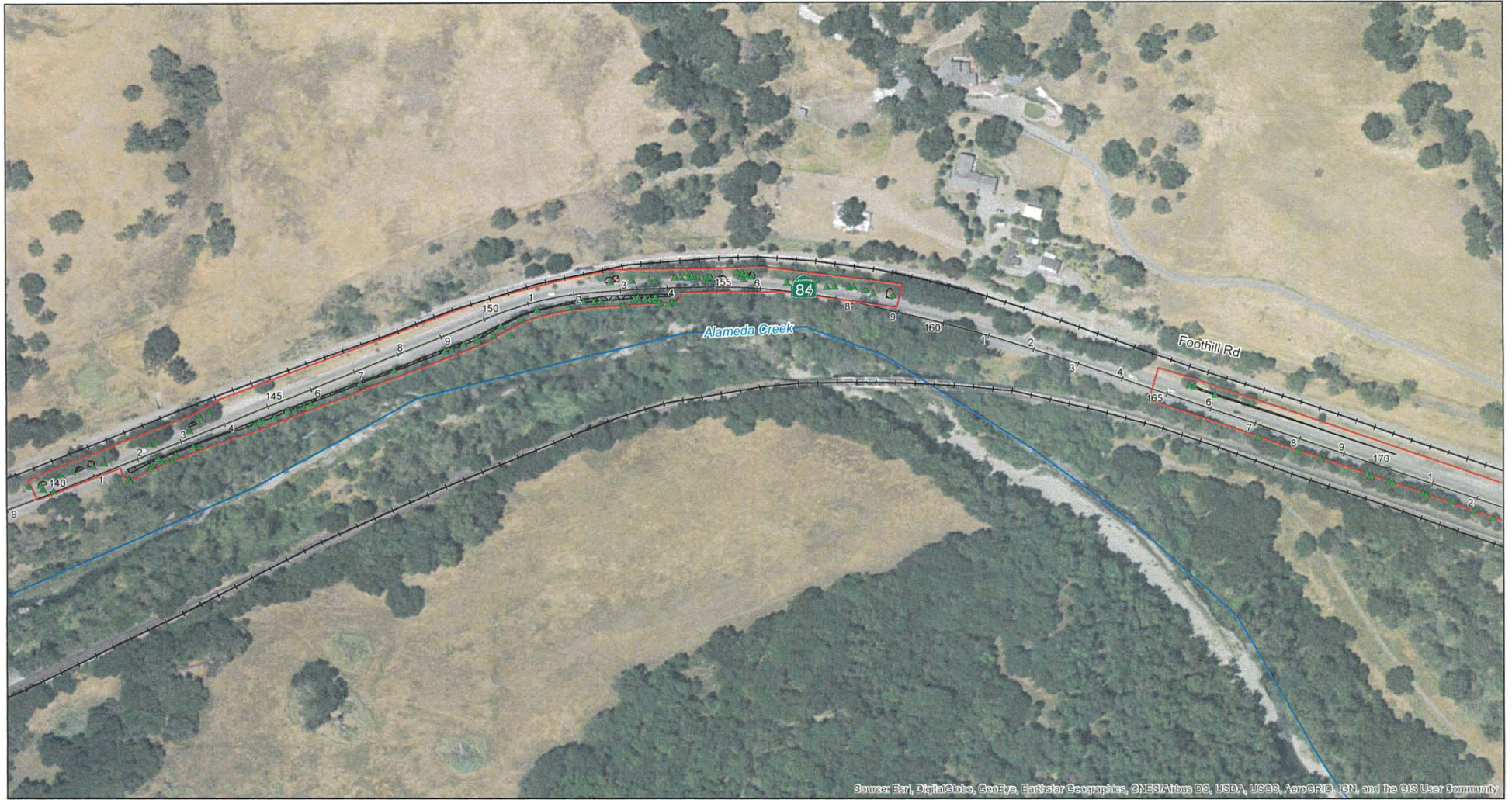
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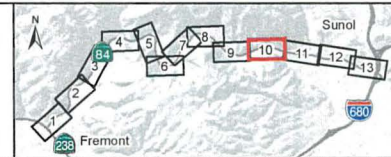
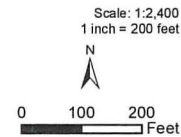




Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



- Biological Study Area
- ▲ Tree
- Permanent Impact
- Temporary Impact
- Stationing
- Creek
- Railroad

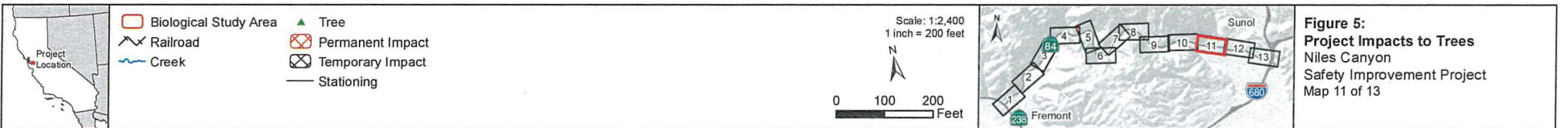


**Figure 5:**  
Project Impacts to Trees  
Niles Canyon  
Safety Improvement Project  
Map 10 of 13





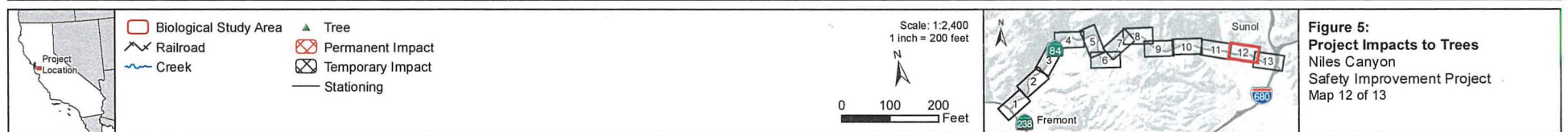
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Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community







Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community





## Attachment 1

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

**INCIDENTAL TAKE PERMIT NO. 2081-2018-085-03**

**PERMITTEE:** California Department of Transportation

**PROJECT:** State Route 84 Niles Canyon Safety Improvements 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
<b>BEFORE DISTURBING SOIL OR VEGETATION</b>					
1	<u>Designated Representative.</u> Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with 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 # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<u>Designated Biologist(s).</u> Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	<u>Designated Biologist Authority.</u> To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity in consultation with the Resident Engineer, 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.  Permittee shall accommodate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to ensure compliance with this ITP, the Designated Biologist shall notify the CDFW representative immediately.	ITP Condition # 6.3	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
4	<u>Education Program.</u> Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in 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 # 6.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5	<u>Delineation of Habitat.</u> Permittee shall clearly delineate habitat of the Covered Species within the vicinity of 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 outside of the Project Area.	ITP Condition # 6.12	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	<u>Delineation of Property Boundaries.</u> 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 # 6.11	Before Commencing Covered Activities	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	<u>Environmentally Sensitive Areas</u> . Prior to the start of construction, for each season, an Environmentally Sensitive Areas (ESAs) plan shall be submitted to CDFW for review 30 days prior to the initiation of construction. The ESA plan shall be clearly delineated using high-visibility orange fencing as the primary option to protect sensitive habitats, other options approved in advance by CDFW may be authorized. The ESA signification system will remain in place throughout the duration of the Project. It may be removed during the wet season (and subsequently re-installed) if needed to prevent materials from being washed away. The final Project plans will depict all locations where ESA signification will be installed and how it will be installed. The bid solicitation package special provisions will clearly describe acceptable signification material and prohibited construction-related activities, vehicle operation, material and equipment storage, and other surface-disturbing activities within ESAs. ESA materials shall be installed as directed by a Designated Biologist and maintained in good repair throughout the Project as needed.	ITP Condition # 8.4	Before Commencing Covered Activities Each Season	Permittee	
8	<u>Protection of Rock Outcroppings</u> . All rock outcroppings shall be identified as specified in Condition of Approval 8.4 and protected to the maximum extent feasible. The outcroppings shall be flagged, fenced, or discussed during environmental training to ensure those areas are avoided, to ensure additional impact shall not occur. In areas of temporary impact, rock outcroppings shall be photographed and rebuilt as close as possible to pre-Project conditions. In areas of permanent impact to rock outcropping the proponent shall report the impacts to CDFW as specified in this ITP.	ITP Condition # 8.5	Before Commencing Covered Activities Each Season	Permittee	
9	<u>Construction Schedule</u> . Permittee shall submit a final construction schedule to CDFW within 14 calendar days prior to the start of Project construction activities each season. The construction schedule shall identify the approximate beginning and completion date of Project activities. 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 # 6.17	Before Commencing Covered Activities	Permittee	
10	<u>Notification Before Commencement</u> . 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 # 7.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
11	<p><b>Habitat Management Land Acquisition and Restoration:</b> 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 either purchase eight acres of Alameda whipsnake credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2), OR shall provide for both the permanent protection and management of a minimum of eight acres of Habitat Management (HM) lands (assuming the HM lands supports both Covered Species) pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Compensatory habitat shall include upland foraging and dispersal habitat for Covered Species through preservation, restoration, enhancement, and/or creation of habitat that is the same or better quality as upland habitat and the riparian habitat that will be impacted. 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 10 below for all uncompleted obligations. The Permittee shall also restore on-site 3.77 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.6 below.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities/ Or within 18 months of effective date of ITP if CDFW-approved security is provided	Permittee	
12	<p><b>Cost Estimates.</b> 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>Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$42,500.00 per acre; for eight acres: <b>\$384,200.00</b>. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;</p> <p>Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at <b>\$35,813.00</b>;</p> <p>Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at <b>\$21,300.00</b>;</p> <p>Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$13,802.00 per acre; for eight acres: <b>\$110,415.00</b>. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.</p> <p>Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at <b>\$3,000.00</b>.</p> <p>Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.6, calculated at \$2,175.00 per acre; for 3.77 acres: <b>\$8,199.00</b></p>	ITP Condition # 9.1	Before commencing ground- or vegetation-disturbing activities/ Or within 18 months of effective date of ITP if CDFW-approved security is provided	Permittee	
13	<p><b>Covered Species Credits.</b> Permittee shall purchase eight acres of Alameda whipsnake 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 10 below.</p> <p>OR:</p>	ITP Condition # 9.2	Before commencing ground- or vegetation-disturbing activities/ Or within 18 months of effective date of ITP if CDFW-approved security is provided	Permittee	



14	<p><u>Habitat Acquisition and Protection.</u> To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:</p> <p><u>Fee Title/Conservation Easement.</u> 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> <p><u>HM Lands Approval.</u> 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;</p> <p><u>HM Lands Documentation.</u> 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;</p> <p><u>Land Manager.</u> 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.</p> <p><u>Start-up Activities.</u> Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <a href="https://www.wildlife.ca.gov/Conservation/Planning/Banking">https://www.wildlife.ca.gov/Conservation/Planning/Banking</a>); (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;</p> <p><u>Interim Management (Initial and Capital).</u> Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, vegetation and invasive species management, annual protocol-level Covered Species surveys, and rangeland monitoring. 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</p>	ITP Condition # 9.3	Before commencing ground- or vegetation-disturbing activities/ Or within 18 months of effective date of ITP if CDFW-approved security is provided	Permittee	
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	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	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				



15	<p><u>Endowment Fund.</u> If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 8.3, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. 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> <p><u>Identify an Endowment Manager.</u> 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 30 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 30-day period, the proposal shall be deemed consistent with Section 2081(b)(4);</p> <p><u>Calculate the Endowment Funds Deposit.</u> 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> <p><u>Capitalization Rate and Fees.</u> Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.</p> <p><u>Endowment Buffers/Assumptions.</u> Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment: 10 Percent Contingency.</p> <p><u>10 Percent Contingency.</u> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</p> <p><u>Three Years Delayed Spending.</u> The endowment shall be established assuming spending will not occur for the first three years after full funding.</p>	ITP Condition # 9.4	Before commencing ground- or vegetation-disturbing activities/ Or within 18 months of effective date of ITP if CDFW-approved security is provided	Permittee	
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	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p><u>Non-annualized Expenses.</u> For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.</p> <p><u>Transfer Long-term Endowment Funds.</u> Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified 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.</p>				
16	<p><u>Reimburse CDFW.</u> Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.</p>	ITP Condition # 9.5	Before commencing ground- or vegetation-disturbing activities/ Or within 18 months of effective date of ITP if CDFW-approved security is provided	Permittee	



17	<p><u>On-Site Habitat Restoration Plan.</u> The Permittee shall submit an On-Site Habitat Restoration Plan (Plan) to CDFW for review, comment and/or final written acceptance 30 days prior to the initiation of construction. The Plan shall be prepared by a Designated Biologist or Restoration Specialist, and address recovery or enhancement of 3.061 acres of covered species habitat on-site.</p> <p>The Plan shall install plantings derived from locally available genotypes, the following species will be required sycamore, oak, buckeye, black walnut, cottonwood and alder, other tree species known to occur at the Project may also be incorporated provided the other species are addressed. The Permittee shall monitor the survival and vigor of on-site tree plantings for a period of 10 years to ensure attainment of a 75% survivorship of all sycamore, oak and black walnut plantings. All other tree species are subject to a 50% survivorship over the period of 10 years. If success criteria are not achieved within 10 years, additional years of enhancement and monitoring may be required as determined by CDFW.</p> <p>The Permittee shall be responsible for the replacement of trees removed or impacted as a result of the Project. Impacted trees may include limbed trees or trees of which work is conducted over their drip line, observation of these trees over time will determine the level of impact that has occurred. All trees impacted as a result of the Project shall be replaced at the follow ratios; California black walnut 6:1, oak species 4:1, sycamores 6:1, native California tree species 2:1, non-native species 1:1. Tree plantings can occur on-site or at a selected off-site location, approved in advanced by CDFW. Permittee will purchase stock from nurseries known for avoiding <i>Phytophthora</i> sp., to the most extent practicable. The Permittee must use seed material and/or on-site propagation material for use in replanting. All trees shall be planted in various container sizes, approved in advance by CDFW, acorns or seed plantings may be authorized upon approval from the CDFW Representative.</p> <p>Shrubs, low canopy and ground cover species shall be subject to a reference site comparison of plant establishment over a period of 10 years.</p> <p><u>Reference Sites.</u> Prior to initiating ground disturbance, Permittee shall establish a representative number of transects within disturbed areas ("treatment") which will each be associated with a reference ("control") site (i.e., site within intact natural habitat that will be used as a model for restoration activities). Each treatment-control transect set shall be appropriately-placed and numbered for identification purposes. The slope, aspect, and hydrological conditions shall be similar for both the site to be restored and the reference site. To document existing plant communities, Permittee shall photograph the treatment and control sites during the spring (March to June) when most flowering plants are in bloom. Permittee shall also evaluate species composition at the reference site. Permittee shall use information collected at the reference site to guide restoration activities.</p> <p><u>Performance Standards.</u> To be considered a successful restoration site, Permittee shall meet the following performance standards:</p> <ul style="list-style-type: none"> <li>• Gravel shall be removed from restored areas;</li> <li>• Permittee may import and place up to three (3) feet of soil in compacted areas, such as former roads and turbine pads, to increase the potential for vegetation establishment. Fill shall not be placed for purely aesthetic purposes, as fill has the potential to result in unnecessary and avoidable take of Covered Species. The upper one (1) foot of fill shall consist of topsoil;</li> <li>• Imported fill soils shall be limited to weed-free topsoil.</li> <li>• Minor re-contouring may be conducted; however, Permittee shall limit grading, compaction, fill, and all other earthmoving activities to the Project Area. Soils shall be protected from wind erosion using a biodegradable erosion control blanket or appropriate mulch cover (i.e. hydroseed or mulch) until vegetation is established. Seed shall be applied prior to October 31, when feasible. If feasible, seed shall be applied immediately prior to the first rain event;</li> </ul>	ITP Condition # 9.6	30 Days Prior to Construction, During Construction, Post Construction	Permittee	
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	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<ul style="list-style-type: none"> <li>• Permittee shall pre-designate each restoration area for establishment of a specific native vegetation community, based on slope, aspect, hydrological conditions, and if applicable, adjacent native vegetation. The seed mix for each restoration site shall be tailored to achieve the species composition of the pre-designated vegetation community. The distribution of vegetation communities within the restoration area shall be roughly proportionate to any native vegetation communities impacted. Following restoration, the species composition of each restoration site shall closely match that of the associated reference site;</li> <li>• Seed mixes shall include only locally native species at a ratio appropriate to the site, with an emphasis on local, native species to the area, local native wildflower may also be included in the mix. Seed may be collected from within the Project Area. Additional seed shall be sourced from within 50 miles of the Project Area (<i>i.e.</i>, original genetic material shall have been collected within this radius); however, the seed may be purchased from a seed farm outside of this area. For seeding and mulching exposed slopes, the seed blend may include one or two sterile non-native perennial grass species.</li> <li>• Permittee shall complete seeding as soon as possible, prior to October 31, as feasible. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.</li> <li>• No more than 20% of the vegetation in each restoration site shall consist of species designated as high or moderate invasive plants in the Cal-IPC's <i>California Invasive Plant Inventory Database</i> (<a href="http://www.cal-ipc.org/paf/">http://www.cal-ipc.org/paf/</a>). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner. Reference sites may be used in lieu of achieving specific milestones noted in this ITP upon written submission and approval from CDFW, which may be in the form of an amendment to this ITP.</li> </ul> <p><u>Invasive Plant Species Control-Baseline.</u> 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. 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.</p> <p>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 (<a href="http://www.cal-ipc.org/paf/">http://www.cal-ipc.org/paf/</a>).</p>				
18	<p><u>Security Amount.</u> The Security shall be in the amount of <b>\$562,927.00</b>. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.</p>	ITP Condition # 10.1	Before commencing ground- or vegetation-disturbing activities/ Or within 18 months of effective date of ITP if CDFW-approved security is provided	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<u>Security Form</u> . 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.	ITP Condition # 10.2	Before commencing ground- or vegetation-disturbing activities/ Or within 18 months of effective date of ITP if CDFW-approved security is provided	Permittee	
20	<p><u>Security Timeline</u>. The Security shall be provided to CDFW no less than 30 days before Covered Activities begin.</p> <p><u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p><u>Security Transmittal</u>. 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><u>Security Drawing</u>. 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><u>Security Release</u>. 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"> <li>• Written documentation of the acquisition of the HM lands;</li> <li>• Copies of all executed and recorded conservation easements;</li> <li>• Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and</li> <li>• Timely submission of all required reports.</li> <li>• Attainment to the On-Site Habitat Restoration Plan Milestones as specified in condition of approval 9.6.</li> </ul> <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 # 10.3 to 10.7	Before commencing ground- or vegetation-disturbing activities/ Or within 18 months of effective date of ITP if CDFW-approved security is provided	Permittee	
<b>DURING CONSTRUCTION</b>					
21	<u>Construction Monitoring Notebook</u> . The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
22	<u>Trash Abatement</u> . Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Plastic water bottles and plastic bags shall be picked up and removed daily.	ITP Condition # 6.6	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	<u>Dust Control.</u> Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 6.7	Entire Project	Permittee	
24	<u>Erosion Control.</u> All erosion and sediment control measures shall be installed prior to ground disturbing Covered Activities. Permittee shall utilize erosion control measures throughout all phases of the Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a drainage, stream, or ponded area. No phase of the Project that may cause the introduction of sediments into a drainage, stream or ponded area 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 the startup of any phase of the Project that may result in sediment runoff to a drainage, stream, or ponded area. The Permittee shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately. Following completion of the Project, Permittee shall implement erosion control measures for all disturbed areas, which may include reseeding using a noxious weed-free locally native seed mix, hydroseeding, jute matting, or tackifying agents to stabilize soils, dust control, and prevent erosion.	ITP Condition # 6.8	Entire Project	Permittee	
25	<u>Erosion Control Materials.</u> Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as plastic or mono-filament netting (erosion control matting) or similar material. Tightly woven silt fencing material or woven organic materials such as coir logs (without mono-filament netting) shall be permitted.	ITP Condition # 6.9	Entire Project	Permittee	
26	<u>Firearms and Dogs.</u> Permittee shall prohibit firearms and domestic dogs from the Project Area and 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 # 6.10	Entire Project	Permittee	
27	<u>Project Access.</u> 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 outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.13	Entire Project	Permittee	
28	<u>CDFW Access.</u> 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 # 6.16	Entire Project	Permittee	
29	<u>Staging Areas.</u> Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.12 of this ITP.	ITP Condition # 6.14	Entire Project	Permittee	
30	<u>Hazardous Waste.</u> Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall 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 # 6.15	Entire Project	Permittee	



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31	<b>Prevention of Spread of Invasive Species.</b> 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.). Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: <a href="http://www.cal-ipc.org/ip/prevention/index.php">http://www.cal-ipc.org/ip/prevention/index.php</a> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <a href="http://www.protectyourwaters.net/">http://www.protectyourwaters.net/</a> .	ITP Condition # 6.19	Entire Project	Permittee	
32	<b>Notification of Non-compliance.</b> The Designated Representative and Designated Biologist 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 and Designated Biologist shall report any non-compliance with this ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	
33	<b>Compliance Monitoring.</b> The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and 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 their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of twice per week during periods of inactivity and after clearing, grubbing, and grading are completed.	ITP Condition # 7.3	Entire Project	Permittee	
34	<b>Tree Removal Report.</b> A tree removal report shall be required for submission that records all trees removed as a result of Covered Activities. The report shall include trees species, diameter at breast height, location and health status. The report should be submitted in monthly and annual compliance reports each season and in the Final Construction Report as specified in Conditions of Approval 7.5, 7.6 and 7.8. The report shall track the removal and limbing of trees throughout the course of the Project to keep an on-going count of trees removed or impacted. The report should include aerial maps, illustrations and tables.	ITP Condition # 7.4			
35	<b>Monthly Compliance Report.</b> The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 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. The reports shall: (1) identify and describe the temporary and permanent 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 terms of this ITP. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Robert Stanley ( <a href="mailto:robert.stanley@wildlife.ca.gov">robert.stanley@wildlife.ca.gov</a> ) and Headquarters CESA Program email is <a href="mailto:CESA@wildlife.ca.gov">CESA@wildlife.ca.gov</a> . CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.5	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
36	<u>Annual Status Report.</u> Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of 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 7.5; (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. ASRs 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 Robert Stanley ( <a href="mailto:robert.stanley@wildlife.ca.gov">robert.stanley@wildlife.ca.gov</a> ).	ITP Condition # 7.6	Entire Project	Permittee	
37	<u>CNDDDB Observations.</u> The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.7	Entire Project	Permittee	
38	<u>Notification of Take or Injury.</u> Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (707) 428-2002. 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 business days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition # 7.9	Entire Project	Permittee	
39	<u>Covered Species Mortality.</u> If the Covered Species is found recently deceased, the 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. The specimen 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.	ITP Condition # 7.10	Entire Project	Permittee	
40	<u>Seasonal Restrictions.</u> All work shall be limited to occur from June 1 to October 31 each season within Stonybrook Creek. Areas of rock outcroppings and possible dens for Covered Species should be avoided and have no work occur until August 15 each year for the duration of the Project. Guardrail work may occur at any time provided all conditions of approval are adhered to as specified in this ITP. Upland work is limited to occur from March 1 to November 30.	ITP Condition # 8.1	Entire Project	Permittee	
41	<u>Vehicle Speed Limit.</u> All vehicles shall be limited to a speed limit of 20 m.p.h. or less on main roads, access roads at all times within the boundary limits of active construction.	ITP Condition # 8.2	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
42	<p><u>Daily Clearance Surveys.</u> The Designated Biologist will conduct daily pre-construction surveys immediately prior to the initiation of work each day within the Project Area throughout the course of the Project. The Designated Biologist shall walk the Project Area and access roads while conducting visual encounter surveys in areas subject to vegetation clearing, grubbing, grading, cut and fill, or other ground disturbing activities. The surveys shall also include the inspection of parked vehicles or equipment prior to their use each day. The Permittee will ensure that a Designated Biologist inspects all staged materials each morning prior to the initiation of construction activities involving disturbance of material piles. Survey notes shall be kept and recorded as specified in this ITP. During active construction multiple biologists shall be required on-site, when needed in circumstances of line of sight constraints to ensure all active equipment has a designated biologist within view of the Covered Activities.</p>	ITP Condition # 8.3	Entire Project	Permittee	
43	<p><u>Covered Species Exclusionary Fencing.</u> An exclusionary fencing system shall be required and plans shall be submitted for CDFW approval 30 days prior to the initiation of construction each season. The exclusionary fencing system shall be required to encompass access roads, staging areas and active construction areas as to not allow outside access of Covered Species into those areas with a series of no gaps or breaks in the fencing system. The plan submission shall be in map form illustrating the proposed alignment with a brief description of the materials to be employed as well as diagram of the fence material and design. All material stockpiles and Project related equipment must be stored within the fenced staging area when not in use.</p> <p>Immediately following the conclusion of vegetation clearing as specified in Condition of Approval 8.7, the staging area, access roads and Project Area shall be checked for Covered Species and shall have exclusionary fencing installed around them as follows; the fencing will be standard silt fencing at least forty-two (42) inches in height that will be trenched a minimum of four (4) inches into the soil. The soil will then be compacted against both sides of the fence to prevent wildlife from gaining access underneath. The stakes will be placed on the Project side of the fence. No gaps or holes are permitted in the fencing system.</p> <p>Any vegetation outside the direct area of fencing within a three (3) foot perimeter must be cleared to a height of six (6) inches and maintained throughout the project at this height, using vegetation removal and clearing methods as specified in Condition of Approval 8.7. A Designated Biologist must be present during all vegetation removal activities.</p> <p>Prior to the initiation of construction each day, the fence shall be inspected daily by a Designated Biologist or biological monitor for holes, gaps, or access points, which shall be repaired upon discovery. The area inside the fence shall also be inspected for trapped Covered Species prior to the initiation of construction each day. If a Covered Species is discovered the Covered Species shall be monitored until it has left the fenced area on its own accord, no work shall occur during this period. If the Covered Species does not leave on its own accord CDFW will be contacted before work may continue.</p>	ITP Condition # 8.6	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
44	<p><u>Vegetation Clearing within Exclusionary Fencing Areas.</u> Areas proposed to be encompassed by exclusionary fencing including staging areas, access routes, and the Project Area will be surveyed as required by the Conditions of Approval in this ITP prior to vegetation removal, installation of fencing and prior to the deployment of any staging or stockpile materials. The vegetation removal will be monitored by a Designated Biologist for the duration of the Project; the Designated Biologist has the authority to stop work if required for any reason in consultation with the Resident Engineer.</p> <p>The vegetation within these areas shall be mowed or trimmed to a height of six inches and no less, using hand tools, weed-whackers, and mowers as necessary. No heavy motorized equipment (i.e. tractor) may be employed for vegetation removal without approval from CDFW. No excessive soil disruption and no grubbing or removal of root systems is permitted during the vegetation clearing for exclusionary fencing areas. The vegetation must be maintained at ground level for the duration of the Project. All mowed and trimmed vegetation matter shall be removed from the area to an off-site location. Immediately after vegetation clearing has concluded, exclusionary fencing shall be installed as specified in Condition of Approval 8.6.</p>	ITP Condition # 8.7	Entire Project	Permittee	
45	<p><u>Wildlife Exclusion Fencing Refuge Areas/Cover Boards.</u> The Permittee shall provide refuge opportunities, such as cover boards (2-foot x 2.6-foot plywood), along the Covered Species exclusion fence on both sides of the fence. Permittee shall submit to CDFW for approval the location and design of the barrier and refuge opportunities no less than 30 days prior to the initiation of construction each season. The Designated Biologist shall inspect refuge areas each morning, as well as, during and after rain events. Covered Species within the interior fence should be given the ability to leave on their own accord before active relocation is attempted. All species found shall be identified, recorded and submitted to CDFW in the Final Construction Report and reported to CNDDDB as specified in this ITP. All wildlife shall be relocated to a safe location outside the Project Area. All relocation events shall be reported in the Final Construction Report.</p>	ITP Condition # 8.8			
46	<p><u>Trench Escape and Inspection.</u> The Designated Biologist and trained construction foreman/manager, supervised by the Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning of each day for trapped animals. To prevent inadvertent entrapment of Covered Species, the Designated Biologist(s) shall oversee the covering of all trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that Covered Species are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. Each morning prior to beginning Covered Activities and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) and/or construction foreman/manager shall thoroughly inspect them for Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately if any worker discovers that Covered Species have become trapped. If at any time a trapped Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per the Relocation Plan described in Condition of Approval 8.12.</p> <p>If open holes, sumps, trenches or excavations cannot be covered then a temporary barrier shall be installed around any trenches, holes, sumps, or other excavations to prevent Covered Species from becoming trapped.</p>	ITP Condition # 8.9	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	<u>Inspection of Pipes and Culverts.</u> All construction pipes, culverts, or similar structures that are stored at the Project for one or more overnight periods shall be securely capped prior to storage or inspected by the Designated Biologist before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a Covered Species is discovered inside a pipe by the Designated Biologist or anyone else, the Covered Species shall be allowed to leave its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area and in accordance with the Condition of Approval 8.12.	ITP Condition # 8.10	Entire Project	Permittee	
48	<u>Vehicle and Equipment Inspection.</u> Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Permittee shall contact the Designated Biologist to determine if the Designated Biologist can safely move the Covered Species in Accordance with Condition of Approval 8.12.	ITP Condition # 8.11	Entire Project	Permittee	
49	<u>Covered Species Relocation Plan.</u> The Designated Biologist(s) shall prepare a Covered Species Relocation Plan (Relocation Plan) to be submitted for CDFW approval 30 days prior to the initiation of construction. The Relocation Plan shall include, but not be limited to, pre-activity survey methodology appropriate for the season, hand excavation, capture, handling, and relocation methods; and identification of where the individuals will be relocated to. The relocation areas shall be identified by the Designated Biologist(s) based upon best suitable habitat available and time of year and approved by CDFW prior to the start of Covered Activities. The Relocation Plan shall be submitted to CDFW for review and approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.	ITP Condition # 8.12	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
50	<p><u>Access Roads.</u> The Designated Biologist(s) shall inspect the entire access route(s) for Covered Species each day when Covered Activities. Inspections shall occur in the morning prior to Project related vehicle access (unless Project related vehicle traffic occurs prior to sunrise) and in the afternoon prior to Project related vehicles exiting the Project Area. If a Designated Biologist finds a dead Covered Species on the access route, Permittee shall consult with CDFW to determine appropriate contingency measures and shall implement the measures determined appropriate by CDFW.</p> <p><u>Vegetation Marked for Protection.</u> Vegetation shall be removed prior to grading. Prior to clearing and grubbing operations, the Designated Biologist shall clearly mark vegetation within the Project Area that shall be avoided. Vegetation outside the Project Area shall not be removed.</p> <p><u>Vegetation Removal Methods.</u> Where possible, hand tools (e.g., trimmer, chain saw, etc.) shall be used to trim or remove vegetation. Any equipment used to remove vegetation shall be set to a height of six inches or higher to prevent inadvertent injury or mortality to Covered Species. All vegetation removal shall be monitored by the Designated Biologist to minimize impacts to the Covered Species.</p> <p><u>Flag Covered Species Nest.</u> Nests or suitable areas for Covered Species nesting should be marked by the Designated Biologist within a reasonable dispersal distance of the Project Area to alert biological and work crews to their presence each season. Where feasible, an avoidance buffer of 250 feet (the distance may be altered at the discretion of the Designated Biologist in consultation with CDFW) or greater around areas shall be maintained using wildlife exclusion fencing or environmentally sensitive area fencing as specified in this Agreement. Nests in areas of impact shall be excavated by hand to allow the detection and relocation of wildlife as necessary.</p> <p><u>Remove Temporary Flagging, Fencing, and Barriers.</u> Permittee shall remove all temporary flagging, fencing, erosion control, temporary work platforms, temporary access road materials, and/or barriers from the Project Area and vicinity of the stream upon completion of Project activities.</p> <p><u>Geo-Textile Fabric Restriction.</u> No permanent geo-textile material or filter fabric of any kind is permitted for installation in any portion of this Project unless specified in the Project Description of this ITP. Temporary use of geo-textile material or filter fabric is permitted provided it is removed each season, additional timeframes of use may be authorized upon written request and written approval from CDFW.</p> <p><u>Geo-Textile and Gravel Fill Removal.</u> All temporary geo-textile and gravel fill shall be removed upon the completion of work each season and upon final completion of the Project, additional timeframes of use may be authorized upon written request and written approval from CDFW.</p> <p><u>Hydroseeding.</u> All disturbed areas shall be re-graded and hydroseeded. Hydroseed shall not contain invasive exotic plant species. Prohibited exotic plant species include those identified in the California Exotic Pest Plant Council's database, which is accessible at: <a href="http://www.cal-ipc.org/paf/">http://www.cal-ipc.org/paf/</a></p>	ITP Condition # 8.13 to 8.20	Entire Project	Permittee	
<b>POST-CONSTRUCTION</b>					
51	<p><u>Refuse Removal.</u> Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill 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.</p>	ITP Condition # 6.18	Post-construction	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
52	<u>Final Mitigation Report</u> . No later than 60 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 # 7.8	During and Post Construction	Permittee	



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)



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.

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

<b>4. AGREEMENT/ACCOUNT INFORMATION:</b> (check the applicable type)  <input type="checkbox"/> 2081 Permit <input type="checkbox"/> Conservation Bank <input type="checkbox"/> 2835 NCCP <input type="checkbox"/> 1802 Agreement <input type="checkbox"/> 1600 Agreement <input type="checkbox"/> 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: \_\_\_\_\_

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