



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

2825 Cordelia Road, Suite 100

Fairfield, CA 94534

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GAVIN NEWSOM, Governor

CHARLTON H. BONHAM, Director



July 15, 2020

Mr. Patrick Riban

Kinder Morgan

1001 Louisiana Street, Suite 1400

Houston, TX 77002

Patrick.Riban@kindermorgan.com

Subject: Incidental Take Permit for 2081-2020-035-03 SFPP LS-16 Pipeline Exposure
at Alameda Creek Project, Alameda County

Dear Mr. Riban:

Enclosed is the Incidental Take Permit for the above referenced project, which has been signed by the California Department of Fish and Wildlife (CDFW). Please read the permit carefully and sign the acknowledgement on the permit no later than 30 days from CDFW signature and prior to initiation of ground-disturbing activities. Hardcopy can be sent to:

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

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

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

Sincerely,

DocuSigned by:
A stylized signature of Gregg Erickson in black ink.
BE74D4C93C604EA...
Gregg Erickson
Regional Manager
Bay Delta Region



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. 2081-2020-035-03

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

Authority:

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

Permittee:	Kinder Morgan
Principal Officer:	Mr. Patrick Riban
Contact Person:	Mr. Patrick Riban, (713) 420-5608 Patrick_Riban@kindermorgan.com
Mailing Address:	1001 Louisiana Street, Suite 1400 Houston, TX 77002

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 5.7 of this ITP.

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

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

Project Location:

The SFPP LS-16 Pipeline Exposure at Alameda Creek Project (Project) is located south of the Town of Sunol, within the County of Alameda (Figure 1). Site access is through Western Star Nursery lands, at 8255 Niles Canyon Road, Sunol, CA 94586. The Project is located along the LS-16 Concord – San Jose pipeline, where it intersects and crosses under Alameda Creek (Figure 1), at approximately Latitude 37.589060° and Longitude -121.895117°. Assessor's Parcel Numbers (APNs): 96-135-1, 96-56-12-2. The Project site is centered on Alameda Creek within natural woodlands.

Project Description:

The Project includes maintenance activities on a segment of Line Section 16 (LS-16), a 10-inch petroleum products pipeline running between Concord and San Jose, California. The maintenance activities consist of the placement of armoring around an approximately 20-foot exposed section of LS-16. This action is planned to prevent potential damage to the exposed pipe that could cause a release; and to comply with the laws, regulations, and policies of all local state and federal agencies with oversight of the Project.

Construction activities will be confined to only the areas necessary for Project construction, which will include the existing pipeline right-of-way, the work area surrounding the pipeline, the access roads, and the staging area (Figure 2). The work site will be accessed from the Western Star Nursery north of the site via an existing one-lane, dirt farm road. Access routes will be restricted to existing dirt roads and the shortest routes feasible from the road to the work site. Staging and work areas will encompass only the area needed to perform the maintenance. Permission to access existing roads and routes will be obtained prior to initiating construction activities. The Project site will be accessed from the north side of Alameda Creek as shown in Figure 3. No improvements to these roads will be conducted as a result of the maintenance activities.

Staging will be established north of Alameda Creek, adjacent to the access road, in an area approximately 100-feet long by 60-feet wide to contain the contractor's equipment and material storage. High-visibility environmentally sensitive area fencing will be installed around the perimeter of the staging area to identify the limits of construction access. Equipment and material storage will be restricted to upland habitats.

A 15-foot wide access route from the existing road to the work site will be cleared only as much as absolutely necessary to allow equipment to reach the work site. Vegetation will be trimmed or cleared only as needed to provide for safe and efficient operation of construction equipment. No grading will occur. In general, the width of the access clearing will be kept to a practical minimum to avoid undue disturbance of adjacent resources. Cleared materials will be disposed of in accordance with state and local laws. A temporary construction bridge or

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

temporary construction mats will be installed to allow equipment to cross the streambed to the work area.

The work area consists of a 0.37-acre space approximately 140 feet long by 110 feet wide. Work will include the placement of additional armoring over the exposed section of LS-16. This exposed section of pipeline is on the south bank of Alameda Creek where the pipe descends from the steep bank above and drops below the streambed. The construction will consist of inspecting and recoating the pipe, wrapping the pipe in Rock Shield protection, placing geotextile fabric (Geogrid) above the pipe, and armoring the approximately 20-foot section of exposed pipe with riprap. The slope of the bank beneath the exposed pipe, which is exposed bedrock, will be benched to remove loose weathered material and provide a stable anchor for the armoring. The armoring will consist of approximately 400 cubic yards of quarried, multiple-sized, rock riprap with an average 32-inch diameter (see Appendix C of ITP application for plan and cross-section drawings).

Dewatering will be required during construction to keep the work area dry. No work will occur in flowing waters. Inflatable cofferdams will be placed above and below the exposed section of pipe to isolate the work area. Water from the stream will be used to fill two inflatable cofferdams once they are set in place. After placement of the cofferdams is complete, an encased and screened submersible 8-inch screened pump will be used to divert the flow around the work area through 12-inch pipes that will discharge the flow downstream of the work area (see Appendix C in the ITP application for detailed drawings of dewatering design). The screens on the pumps will meet the National Marine Fisheries Service (NMFS) fish screen criteria for anadromous salmonids (NMFS 1997). A water bypass system will be active while crews are working in the channel. Upstream of the work area, a submersible pump enclosed in screening will divert the flow around the work area to a discharge point downstream in the creek. Any water seeping into the work area will be pumped out through a silt bag, using a 6-inch screened pump. The silt bag will be placed in an upland area for dispersal of the water such that it will not re-enter surface waters or the work area.

Equipment to be used may include an excavator, track loader, skid steer, dewatering equipment (two pumps, bypass piping, two 4-foot by 75-foot Aqua Barrier inflatable cofferdams), trucks and trailers, portable air compressor, sandblasting material, and shovels. Construction is estimated to take 2 to 3 weeks. Once maintenance activities are completed, the equipment and construction materials will be removed, and the site restored to pre-construction contours.

Project activities include clearing vegetation, installation of temporary bridge or construction mats, placement of coffer dams, dewatering a section of Alameda Creek, excavation, placement of riprap and other activities.

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN
SFPPLS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ³
2. Alameda whipsnake (<i>Masticophis lateralis euryxanthus</i>)	Threatened ⁴

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 clearing vegetation, installation of temporary bridge or construction mats, placement of coffer dams, dewatering a section of Alameda Creek, excavation, placement of riprap, vehicular and equipment movement within the work area, staging area and access route; and other activities (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 crushing or injuring Covered Species that enter into the work area, staging area, and access route from off-site; excavating, trenching, trampling, or driving over Covered Species that may be living in the work area, staging area, access routes, or killing or injuring a Covered Species that may be dispersing onto the work area, staging area, and access route. Death from desiccation or predation may also occur from Covered Species entering into the work area, staging area, and access route where there is no cover. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of catch, capture, or attempt to do so of the Covered Species from relocating or moving Covered Species out of harm’s way. The areas where authorized take of the Covered Species is expected to occur include: the work area, staging area, and access route (collectively, the Project Area).

The Project is expected to cause the temporary loss of 0.624 acres of habitat for the Covered Species. Impacts to California tiger salamander habitat include 0.31 acres of temporary loss of upland habitat (staging areas, and access route). Impacts to Alameda whipsnake habitat include 0.1567 temporary loss of aquatic habitat, 0.0066 acre of conversion of aquatic habitat to rock riprap, and 0.4607 acre of temporary loss of dispersal and foraging habitat. 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

³See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).
⁴See *Id.*, subd. (b)(4)(D).

incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from tunneling and capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

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

Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. 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. 1600-2020-0186-R3 for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- 3. 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.
- 4. General Provisions:**
 - 4.1. 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

Incidental Take Permit
No. 2081-2020-035-03
KINDER MORGAN
SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

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.

- 4.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the biological monitor(s) (collectively, "Designated Biologist") at least 30 days before starting Covered Activities. Permittee shall ensure that all Designated Biologists are 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.
- 4.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 4.4. 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.
- 4.5. Construction Monitoring Binder. The Designated Biologist shall maintain a construction-monitoring binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project site upon request by CDFW.

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN
SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

- 4.6. 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 removed and disposed of daily.
- 4.7. 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.
- 4.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 4.9. 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.
- 4.10. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 4.11. 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 on dirt roads do not exceed 15 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.
- 4.12. Access Roads. If burrows are present, as determined by the Designated Biologist access on unpaved roads shall be only by rubber tracked or lightweight rubber-tired

vehicles to reduce collapse of burrows. Access roads shall be clearly marked and shall avoid sensitive plants.

- 4.13. 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 4.11 of this ITP. Excess spoils shall be legally disposed of at a landfill unless otherwise described in this ITP.
- 4.14. 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. Refueling of equipment and vehicles will not occur within 100 feet of surface waters. All hazardous materials shall be properly stored and labeled according to the manufacturer and shall not be kept closer than 100 feet from surface waters.
- 4.15. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project sites and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 4.16. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all 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.

5. Monitoring, Notification and Reporting Provisions:

- 5.1. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 5.2. 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

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN
SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

inspection records summarizing: oversight activities and compliance inspections, weather conditions, observations of Covered Species and other wildlife species, and their sign, survey results, and monitoring activities required by this ITP.

- 5.3. Weekly Compliance Monitoring. During periods of inactivity or after clearing, grubbing, and grading are completed compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any conditions of this ITP including the failure to maintain the temporary barrier described in Condition of Approval 6.3.
- 5.4. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 5.2 and 5.3 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 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. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (Marcia.Grefsrud@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 5.5. 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 5.4; (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 since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 5.6. CNDDDB Observations. The Designated Biologist shall notify the CDFW Representative immediately when a Covered Species is seen or taken. The Designated Biologist shall submit all confirmed observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

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.

- 5.7. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 5.8. Notification of Take or Injury. Permittee shall notify the Designated Biologist by the end of the business day 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) 482-2002 and the CDFW Representative at (707) 644-2812 by the end of the business day. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. If the take or injury is a result of Covered Activities then following initial notification, Permittee shall send CDFW a written report within two calendar days of the discovery. The report shall include the date and time of the finding or incident, GPS location of the Covered Species, photographs of the location and the Covered Species, explanation as to cause of take or injury, and any other pertinent information.
- 5.8.1. If a California tiger salamander is found recently deceased, a ½- inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to:

CDFW Bay Delta Region
 Attention: Marcia Grefsrud
 2825 Cordelia Road, Suite 100
 Fairfield, CA 94534

Incidental Take Permit
 No. 2081-2020-035-03
KINDER MORGAN
SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

The remaining carcasses shall be delivered to the following address within two calendar days of the discovery:

CDFW Wildlife Investigations Lab
Attention: Deana Clifford
1701 Nimbus Road, Suite D
Rancho Cordova, CA 95670

- 5.8.2. If an Alameda whipsnake is found recently deceased, a 3 mm portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, 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 tail tip shall be sent to the following address:

U.S. Geological Survey
Attention: Jonathan Richmond
4165 Spruance Road, Suite 200
San Diego, CA 92101

The remaining carcass shall be sent to Berkeley Natural History Museum at http://mvz.berkeley.edu/Find_Animal.html or California Academy of Sciences, at Herpetology, (415) 379-5292, or at LScheinberg@calacademy.org.

- 5.9. Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the temporary impact; and (2) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (see Condition of Approval 7.6).
- 5.10. Temporary Impact Restoration Schedule. Prior to initiating any temporary impacts, Permittee shall ensure that a Temporary Impact Restoration Schedule has been developed that ensures: (1) removal of gravel, recontouring and seeding of temporary impact areas shall occur prior to October 31 of each year where the impacts occur; and (2) all temporary impacts from prior years have met the October 31 recontouring and seeding criteria and have achieved vegetation success as described in the Vegetation Restoration Plan (See Condition of Approval 7.6).

6. 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:

Incidental Take Permit
No. 2081-2020-035-03
KINDER MORGAN
SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

- 6.1. Time of Day Work Restriction. Permittee shall restrict work activities to between sunrise and sunset, based on times established by the U.S. Naval Observatory Astronomical Applications Department. The Permittee may access staging areas up to 30 minutes prior to sunrise if escorted onto the project site by a Designated Biologist. Any variation in time of day restriction must be approved in writing by the CDFW Representative.
- 6.2. Work Period. Permittee shall confine work within the stream/riparian corridor to the period July 1 to October 31. Revegetation work is not confined to this time period.
- 6.3. Temporary Covered Species Barrier. Prior to commencing any other Covered Activities, Permittee shall install a temporary barrier to prevent the Covered Species from dispersing into the Project Area (excluding the sections of the Access Road and burrow compaction areas, but including the Staging Areas and Work Areas). The barrier shall be designed to allow the Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. The barrier shall remain in place until the Project is complete. The Designated Biologist (or other trained staff during periods when no Covered Activities occur) shall inspect the barrier daily, and before, during and after storm events. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Vegetation shall be managed on the opposite side of the work area at least three feet outward to prevent the possibility of Alameda whipsnake from using vegetation to climb over the fence. Permittee shall provide refuge opportunities, such as cover boards (3-foot x 3-foot plywood), along the 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 proposed start of Covered Activities. The Designated Biologist shall inspect refuge areas each morning during and after rain events. Animals found within the interior fence shall be relocated outside the fence line no more than 300 feet from the Project boundary. California tiger salamanders found shall be relocated by the Designated Biologist per Condition of Approval 6.10.
- 6.4. Dewatering. Sediment-laden water from dewatering shall be held in a settling container or discharged in an upland location where it will not drain directly into a stream or into small mammal burrows.
- 6.5. Trench Escape and Inspection. The Designated Biologists 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

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN
SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

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 California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per Condition of Approval 6.10.

- 6.5.1. If the open holes, sumps, trenches or excavations cannot be covered then the Permittee shall install a temporary barrier around any trenches, holes, sumps, or other excavations to prevent Covered Species from becoming trapped. Refuge opportunities, such as cover boards (3-foot x 3-foot plywood), shall be provided on the outside perimeter of the barrier.
- 6.6. Inspection of Pipes and Culverts. Permittee shall ensure all construction pipes, culverts, or similar structures that are stored at the Project site 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 Conditions of Approval 6.10.
- 6.7. 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 Conditions of Approval 6.10.
- 6.8. Erosion Control. Permittee shall ensure all erosion and sediment control measures are installed prior to earth moving Covered Activities on any phase of the Project. Permittee shall utilize erosion control measures throughout all phases of Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. Permittee, Designated Representative, or other trained staff

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

shall monitor erosion control measures before, during, and after each storm event and repair and/or replace ineffective measures immediately.

- 6.9. Prohibited Plant Species. Permittee shall not plant, seed, or otherwise introduce 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/>.

California tiger salamander specific measures

- 6.10. California Tiger Salamander Relocation. The Designated Biologist shall relocate any California tiger salamander found within the Project Area to be impacted to an active rodent burrow system located no more than 300 feet outside of the Project Area unless otherwise approved by CDFW in writing. The Designated Biologist shall document both the capture and relocation areas by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation shall be provided to the CDFW within 24 hours of California tiger salamander relocation.
- 6.11. Augering and Excavation. The Designated Biologist shall survey all augering and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.
- 6.12. Pre-activity Surveys. The Designated Biologist shall inspect all ruts and holes near root structures, foundations, abutments, etc. for California tiger salamander immediately prior to and during excavation or removal. A Designated biologist shall survey the open areas adjacent to ongoing construction. Multiple biologists may be necessary to survey the area appropriately. If a California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location (e.g. mouth of ground-squirrel burrow outside of the temporary barrier) per Condition of Approval 6.10 and monitor it until it is determined that it is not imperiled by predators or other dangers.
- 6.13. Covered Species Handling and Injury. California tiger salamanders shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) (Attachment 2). If an injured California tiger salamander is found during the Project term, the individual shall be evaluated by the Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured salamander shall be placed in a shaded

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

container and kept moist. If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken by the Designated Biologist:

- a) If the injury is minor or healing and the salamander is likely to survive, the salamander shall be released immediately in accordance with the Condition of Approval 6.10.
- b) If it is determined that the California tiger salamander has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by the CDFW and U.S. Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured California tiger salamander. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 5.8.

- 6.14. Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a non-native barred tiger salamander (*Ambystoma tigrinum mavortium*) or California tiger salamander hybrid is found or suspected within the Project Area within 24 hours by calling CDFW's Regional Representative. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Covered Species Handling and Injury measures outlined in this ITP (see Condition of Approval 7.13).

Alameda whipsnake specific measures

- 6.15. Daily Surveys. The Designated Biologist shall conduct walking, pre-construction surveys for Alameda whipsnakes prior to the initiation of Covered Activities each day including excavated/dewatered areas. In addition, the Designated Biologist shall walk in front of the earthmoving equipment while Covered Activities are being conducted, if it can be done safely. If an Alameda whipsnake is discovered, the Designated Biologist shall have the authority to halt construction until the Alameda whipsnake leaves the area of 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.
- 6.16. Access Roads. The Designated Biologist shall inspect the entire access route for Covered Species each day when Covered Activities are occurring between March 15 and October 31 of each year. Inspections shall occur in the morning prior to Project related vehicle access (unless Project related vehicle traffic occurs prior to sunrise)

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

and in the afternoon prior to Project related vehicles exiting the Project Area. If a Designated Biologist finds a dead Alameda whipsnake on the access route, Permittee shall consult with CDFW to determine appropriate contingency measures and shall implement the measures determined appropriate by CDFW.

- 6.17. Vegetation Marked for Protection. Permittee shall ensure vegetation is 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.
- 6.18. Vegetation Removal Methods. Where possible, Permittee shall use hand tools (e.g., trimmer, chain saw, etc.) to trim or remove vegetation. All vegetation removal shall be monitored by the Designated Biologist to minimize impacts to the Covered Species.

7. 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 0.624 acre of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 7.2) OR shall provide for both the permanent protection and management of 0.624 acre of Habitat Management (HM) lands pursuant to Condition of Approval 7.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 7.4 below. 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 8 below for all uncompleted obligations. The Permittee shall also restore on-site 0.624 acre of temporarily impacted Covered Species habitat pursuant to Condition of Approval 7.6 below.

- 7.1. 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:

- 7.1.1. Purchase of 0.624 acre of Covered Species credits from a CDFW-approved mitigation or conservation bank is estimated at \$50,000.00 per acre for total of **\$31,200.00** (multi-species credits).

7.1.2. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 7.6, calculated at \$4,500/acre for 0.624 acre: **\$2,808.00.**

7.2. Covered Species Credits. Permittee shall purchase 0.624 acre of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 8 below.

OR:

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

7.3.1. 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);

7.3.2. 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 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

7.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). All documents conveying the HM lands and all conditions of

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN
SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

- 7.3.4. 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;
- 7.3.5. 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/Templates>) (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;
- 7.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.
- 7.4. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 7.3, The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

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 7.3.5. 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.

- 7.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).
- 7.4.2. 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-

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

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.

7.4.2.1. 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.

7.4.2.2. 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:

7.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

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

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

7.4.3. 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.

7.5. 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.

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN
SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

7.6. Habitat Restoration. Permittee shall restore on-site the 0.624 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 30 days of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 0.4607 acre of temporary construction disturbance on-site and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The plan shall also indicate the best time of year for seeding to occur, as well as avoidance, minimization, restoration measures and success criteria.

8. 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 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

8.1. Security Amount. The Security shall be in the amount of **\$34,008.00**. This amount is based on the cost estimates identified in Condition of Approval 7.1 above.

8.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.

8.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.

8.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.

8.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.

8.6. 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.

8.7. 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;

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

- Copies of all executed and recorded conservation easements;
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
- Timely submission of all required reports.

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

Amendment:

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

Stop-Work Order:

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

Compliance with Other Laws:

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

Notices:

The Permittee shall deliver a fully executed duplicate original ITP by registered first class mail

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

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

Alternatively, the Permittee shall email the digitally signed ITP to CESA@wildlife.ca.gov.
Digital signatures shall comply with Government Code section 16.5.

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or 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 (2081-2020-035-03) 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

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
CESA@wildlife.ca.gov

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

Marcia Grefsrud
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Telephone (707) 644-2812
Marcia.Grefsrud@wildlife.ca.gov

Incidental Take Permit
No. 2081-2020-035-03
KINDER MORGAN
SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

Compliance with California Environmental Quality Act:

In general, the issuance of an ITP under CESA constitutes the approval of a project by CDFW subject to California Environmental Quality Act (CEQA). (See generally Pub. Resources Code, § 21000 et seq.). CDFW has issued the ITP in the present case as a lead agency for purposes of CEQA. (Id., § 21067). CDFW determined in that capacity that the Project and issuance of this ITP constitutes a Statutory Exemption as defined by CEQA. (Id., § 21080.23; Cal. Code Regs., tit. 14, § 15284). Issuance of the ITP, in this respect, is statutorily exempt from further environmental review under CEQA because under Cal. Code Regs., tit. 14, § 15284 CEQA does not apply to any project consisting of the inspection, maintenance, repair, restoration, reconditioning, relocation, replacement, or removal of an existing hazardous or volatile liquid pipeline or any valve, flange, meter, or other piece of equipment that is directly attached to the pipeline if the pipeline diameter will not be increased and the Project is not located within the boundaries of an oil refinery and it meets the following criteria:

- (1) The affected section of pipeline is less than eight miles in length and actual construction and excavation activities are not undertaken over a length of more than one-half mile at a time.
- (2) The affected section of pipeline is not less than eight miles distance from any section of pipeline that had been subject to this exemption in the previous 12 months.
- (3) The project is not solely for the purpose of excavating soil that is contaminated by hazardous materials.
- (4) To the extent not otherwise required by law, the person undertaking the project has, in advance of undertaking the project, prepared a plan that will result in notification of the appropriate agencies so that they may take action, if necessary, to provide for the emergency evacuation of members of the public who may be located in close proximity to the project, and those agencies, including but not limited to the local fire department, police, sheriff, and California Highway Patrol as appropriate, have reviewed and agreed to that plan.
- (5) Project activities take place within an existing right-of-way and that right-of-way will be restored to its pre-project condition upon completion of the project.
- (6) The project applicant will comply with all conditions otherwise authorized by law, imposed by the city or county as part of any local agency permit process, and to comply with the Keene-Nejedly California Wetlands Preservation Act (Public Resources Code Section 5810, et seq.), the California Endangered Species Act (Fish and Game Code Section 2050, et seq.), other applicable state laws, and all applicable federal laws.

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

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, the results of consultations and communications, 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 0.624 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

Incidental Take Permit
No. 2081-2020-035-03

KINDER MORGAN

SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

Attachments:

FIGURE 1	Map of Project
FIGURE 2	Project Area
FIGURE 3	Project Impacts
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Restraint and Handling of Live Amphibians
ATTACHMENT 3A, 3B	Habitat Management Lands Checklist; Proposed Lands for
Acquisition Form	
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 7/15/2020.

DocuSigned by:

Gregg Erickson
BE74D4C93C604EA...

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.

DocuSigned by:

By: *Patrick Riban*
C93153147755420...

Date: 7/15/2020

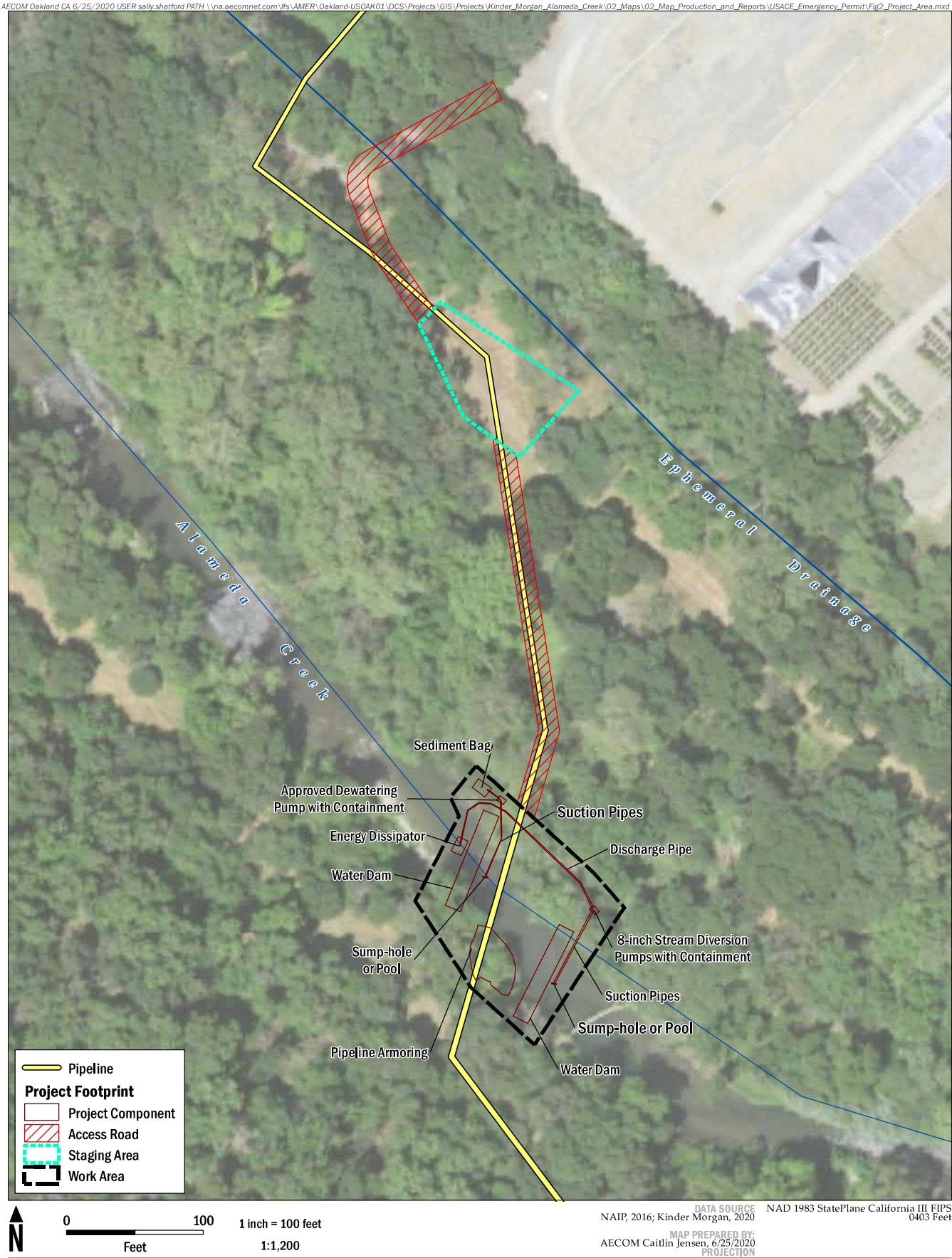
Printed Name: Patrick Riban

Title: 16:43

Incidental Take Permit
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KINDER MORGAN
SFPP LS-16 PIPELINE EXPOSURE AT ALAMEDA CREEK

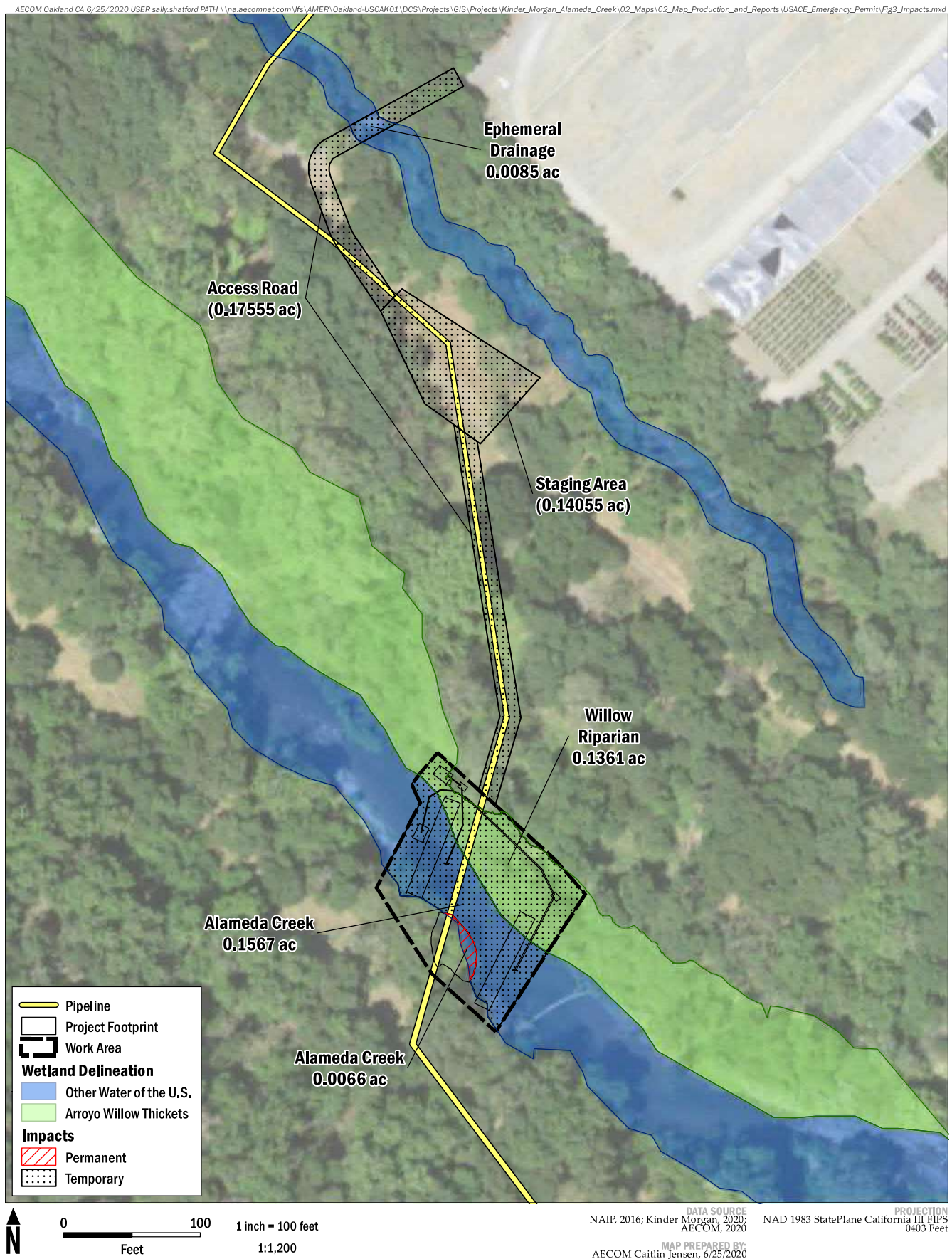




AECOM

Kinder Morgan
Kinder Morgan Pipeline Exposure, Alameda Creek
JURISDICTIONAL DELINEATION

FIGURE 2
Project Area



AECOM

Kinder Morgan

Kinder Morgan Pipeline Exposure, Alameda Creek
JURISDICTIONAL DELINEATION

FIGURE 3
Project Impacts

Attachment 1**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
CALIFORNIA ENDANGERED SPECIES ACT****INCIDENTAL TAKE PERMIT NO. 2081-2020-035-03****PERMITTEE: Kinder Morgan****PROJECT: SFPP LS-16 Pipeline Exposure at Alameda Creek 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 ITP 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 of all mitigation measures and for reporting to CDFW on the progress in implementing those measures. These monitoring and reporting requirements are set forth in the ITP itself and are summarized at the front of the attached table.

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	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.	ITP Condition # 4.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the biological monitor(s) (collectively, "Designated Biologist") at least 30 days before starting Covered Activities. Permittee shall ensure that all Designated Biologists are 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 # 4.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 4.3	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
4	Education Program. Permittee shall conduct an education program for all persons employed on the Project prior to their performing work on-site. 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 under CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing work on-site. Copies of this ITP shall be maintained at the worksite. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry on-site. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. These forms shall be filed at the worksite offices and be available to CDFW upon request.	ITP Condition # 4.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5	Construction Monitoring Binder. The Designated Biologist shall maintain a construction-monitoring binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project site upon request by CDFW.	ITP Condition # 4.5	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	Trash Abatement. Permittee shall initiate a trash abatement program during pre-construction phases of the Project and continue the program throughout the duration of the Project. Trash and food items shall be contained in closed (raven-proof) containers and removed regularly (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 removed and disposed of daily.	ITP Condition # 4.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
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.	ITP Condition # 4.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
8	Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 4.8	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
9	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.	ITP Condition # 4.9	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
10	Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 4.10	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
11	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 on dirt roads do not exceed 15 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 # 4.11	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
12	CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project sites and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition # 4.15	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
13	Notification of Non-Compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
14	Habitat Management Land Acquisition and Restoration. Permittee shall either purchase 0.624 acre of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 7.2) OR shall provide for both the permanent protection and management of 0.624 acre of Habitat Management (HM) lands pursuant to Condition of Approval 7.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 7.4 below. 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 8 below for all uncompleted obligations. The Permittee shall also restore on-site 0.624 acre of temporarily impacted Covered Species habitat pursuant to Condition of Approval 7.6 below.	ITP Condition # 7.0	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	Covered Species Credits. Permittee shall purchase 0.624 acre of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 8 below. OR:	ITP Condition # 7.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
16	<p>Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:</p> <p>Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);</p> <p>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 3B) 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>HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). 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>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.</p> <p>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/Templates) (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)</p>	ITP Conditions # 7.3, 7.3.1, 7.3.2, 7.3.3, 7.3.4, 7.3.5, 7.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>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>Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.</p>				
17	<p>Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 7.3, 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 7.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition # 7.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
18	<p>Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and</p>	ITP Condition # 7.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).				
19	<p>Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.</p> <p>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.</p> <p>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:</p> <p>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.</p> <p>Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>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.</p>	ITP Conditions # 7.4.2, 7.4.2.1, 7.4.2.2, 7.4.2.2.1, 7.4.2.2.2, 7.4.2.2.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
20	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.	ITP Condition # 7.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
21	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.	ITP Condition # 7.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
22	Habitat Restoration. Permittee shall restore on-site the 0.624 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 30 days of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 0.4607 acre of temporary construction disturbance on-site, and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include	ITP Condition # 7.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The plan shall also indicate the best time of year for seeding to occur, as well as avoidance, minimization, restoration measures and success criteria				
23	<p>Performance Security. The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>Security Amount. The Security shall be in the amount of \$34,008.00. This amount is based on the cost estimates identified in Condition of Approval 7.1 above.</p> <p>Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.</p>	ITP Conditions # 8, 8.1, 8.2, 8.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
DURING CONSTRUCTION					
24	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, weather conditions, observations of Covered Species and other wildlife species, and their sign, survey results, and monitoring activities required by this ITP.	ITP Condition # 5.2	Entire Project	Permittee	
25	Weekly Compliance Monitoring. During periods of inactivity or after clearing, grubbing, and grading are completed compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any conditions of this ITP including the failure to maintain the temporary barrier described in Condition of Approval 6.3.	ITP Condition # 5.3	Entire Project	Permittee	
26	Monthly Compliance Reporting. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 5.2 and 5.3 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 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. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (Marcia.Grefsrud@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 5.4	Entire Project	Permittee	
27	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	ITP Condition # 5.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 5.4; (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 since ITP issuance; and (7) information about other Project impacts on the Covered Species.				
28	CNDDDB Observations. The Designated Biologist shall notify the CDFW Representative immediately when a Covered Species is seen or taken. The Designated Biologist shall submit all confirmed 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 # 5.6	Entire Project	Permittee	
29	Time of Day Work Restriction. Permittee shall restrict work activities to between sunrise and sunset, based on times established by the U.S. Naval Observatory Astronomical Applications Department. The Permittee may access staging areas up to 30 minutes prior to sunrise if escorted onto the project site by a Designated Biologist. Any variation in time of day restriction must be approved in writing by the CDFW Representative.	ITP Condition # 6.1	Entire Project	Permittee	
30	Work Period. Permittee shall confine work within the stream/riparian corridor to the period July 1 to October 31. Revegetation work is not confined to this time period.	ITP Condition # 6.2	Entire Project	Permittee	
31	Temporary Covered Species Barrier. Prior to commencing any other Covered Activities, Permittee shall install a temporary barrier to prevent the Covered Species from dispersing into the Project Area (excluding the sections of the Access Road and burrow compaction areas, but including the Staging Areas and Work Areas). The barrier shall be designed to allow the Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. The barrier shall remain in place until the Project is complete. The Designated Biologist (or other trained staff during periods when no Covered Activities occur) shall inspect the barrier daily, and before, during and after storm events. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Vegetation shall be managed on the opposite side of the work area at least three feet outward to prevent the possibility of Alameda whipsnake from using vegetation to climb over the fence. Permittee shall provide refuge opportunities, such as cover boards (3-foot x 3-foot plywood), along the 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 proposed start of Covered Activities. The Designated Biologist shall inspect refuge areas each morning during and after rain events. Animals found within the interior fence shall be relocated outside the fence line no more than 300 feet from the Project boundary. California tiger salamanders found shall be relocated by the Designated Biologist per Condition of Approval 6.10.	ITP Condition # 6.3	Entire Project	Permittee	
32	Dewatering. Sediment-laden water from dewatering shall be held in a settling container or discharged in an upland location where it will not drain directly into a stream or into small mammal burrows.	ITP Condition # 6.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
33	Access Roads. If burrows are present, as determined by the Designated Biologist access on unpaved roads shall be only by rubber tracked or lightweight rubber-tired vehicles to reduce collapse of burrows. Access roads shall be clearly marked and shall avoid sensitive plants.	ITP Condition # 4.12	Entire Project	Permittee	
34	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 4.11 of this ITP. Excess spoils shall be legally disposed of at a landfill unless otherwise described in this ITP.	ITP Condition # 4.13	Entire Project	Permittee	
35	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. Refueling of equipment and vehicles will not occur within 100 feet of surface waters. All hazardous materials shall be properly stored and labeled according to the manufacturer and shall not be kept closer than 100 feet from surface waters.	ITP Condition # 4.14	Entire Project	Permittee	
36	Trench Escape and Inspection. The Designated Biologists 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 California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per Condition of Approval 6.10. If the open holes, sumps, trenches or excavations cannot be covered then the Permittee shall install a temporary barrier around any trenches, holes, sumps, or other excavations to prevent Covered Species from becoming trapped. Refuge opportunities, such as cover boards (3-foot x 3-foot plywood), shall be provided on the outside perimeter of the barrier.	ITP Condition # 6.5	Entire Project	Permittee	
37	Inspection of Pipes and Culverts. Permittee shall ensure all construction pipes, culverts, or similar structures that are stored at the Project site 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	ITP Condition # 6.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	Designated Biologist to a suitable location outside of the Project Area and in accordance with the Conditions of Approval 6.10.				
38	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 Conditions of Approval 6.10.	ITP Condition # 6.7	Entire Project	Permittee	
39	Erosion Control. Permittee shall ensure all erosion and sediment control measures are installed prior to earth moving Covered Activities on any phase of the Project. Permittee shall utilize erosion control measures throughout all phases of Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. Permittee, Designated Representative, or other trained staff shall monitor erosion control measures before, during, and after each storm event and repair and/or replace ineffective measures immediately.	ITP Condition # 6.8	Entire Project	Permittee	
40	Prohibited Plant Species. Permittee shall not plant, seed, or otherwise introduce 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/ .	ITP Condition # 6.9	Entire Project	Permittee	
41	California Tiger Salamander Relocation. The Designated Biologist shall relocate any California tiger salamander found within the Project Area to be impacted to an active rodent burrow system located no more than 300 feet outside of the Project Area unless otherwise approved by CDFW in writing. The Designated Biologist shall document both the capture and relocation areas by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation shall be provided to the CDFW within 24 hours of California tiger salamander relocation.	ITP Condition # 6.10	Entire Project	Permittee	
42	Augering and Excavation. The Designated Biologist shall survey all augering and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.	ITP Condition # 6.11	Entire Project	Permittee	
43	Pre-activity Surveys. The Designated Biologist shall inspect all ruts and holes near root structures, foundations, abutments, etc. for California tiger salamander immediately prior to and during excavation or removal. A Designated biologist shall survey the open areas adjacent to ongoing construction. Multiple biologists may be necessary to survey the area appropriately. If a California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location (e.g. mouth of ground-squirrel burrow outside of the temporary barrier) per Condition of Approval 6.10 and monitor it until it is determined that it is not imperiled by predators or other dangers.	ITP Condition # 6.12	Entire Project	Permittee	
44	Covered Species Handling and Injury. California tiger salamanders shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) (Attachment 2). If an injured California tiger salamander is found during the Project term, the individual shall be evaluated by the Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured salamander shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has	ITP Condition # 6.13	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>not responded within 15 minutes of initial attempts then the following steps shall be taken by the Designated Biologist:</p> <p>a) If the injury is minor or healing and the salamander is likely to survive, the salamander shall be released immediately in accordance with the Condition of Approval 6.10.</p> <p>b) If it is determined that the California tiger salamander has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by the CDFW and U.S. Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured California tiger salamander. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 5.8.</p>				
45	Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a non-native barred tiger salamander (<i>Ambystoma tigrinum mavortium</i>) or California tiger salamander hybrid is found or suspected within the Project Area within 24 hours by calling CDFW's Regional Representative. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Covered Species Handling and Injury measures outlined in this ITP (see Condition of Approval 7.13).	ITP Condition # 6.14	Entire Project	Permittee	
46	Daily Surveys. The Designated Biologist shall conduct walking, pre-construction surveys for Alameda whipsnakes prior to the initiation of Covered Activities each day including excavated/dewatered areas. In addition, the Designated Biologist shall walk in front of the earthmoving equipment while Covered Activities are being conducted, if it can be done safely. If an Alameda whipsnake is discovered, the Designated Biologist shall have the authority to halt construction until the Alameda whipsnake leaves the area of 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.	ITP Condition # 6.15	Entire Project	Permittee	
47	Access Roads. The Designated Biologist shall inspect the entire access route for Covered Species each day when Covered Activities are occurring between March 15 and October 31 of each year. 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 Alameda whipsnake on the access route, Permittee shall consult with CDFW to determine appropriate contingency measures and shall implement the measures determined appropriate by CDFW.	ITP Condition # 6.16	Entire Project	Permittee	
48	Vegetation Marked for Protection. Permittee shall ensure vegetation is 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.	ITP Condition # 6.17	Entire Project	Permittee	
49	Vegetation Removal Methods. Where possible, Permittee shall use hand tools (e.g., trimmer, chain saw, etc.) to trim or remove vegetation. All vegetation removal shall be monitored by the Designated Biologist to minimize impacts to the Covered Species.	ITP Condition # 6.18	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
50	<p>Notification of Take or Injury. Permittee shall notify the Designated Biologist by the end of the business day 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) 482-2002 and the CDFW Representative at (707) 644-2812 by the end of the business day. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. If the take or injury is a result of Covered Activities then following initial notification, Permittee shall send CDFW a written report within two calendar days of the discovery. The report shall include the date and time of the finding or incident, GPS location of the Covered Species, photographs of the location and the Covered Species, explanation as to cause of take or injury, and any other pertinent information.</p> <p>If a California tiger salamander is found recently deceased, a ½- inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to: CDFW Bay Delta Region, Attention: Marcia Grefsrud, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534</p> <p>The remaining carcasses shall be delivered to the following address within two calendar days of the discovery: CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road, Suite D, Rancho Cordova, CA 95670</p> <p>If an Alameda whipsnake is found recently deceased, a 3 mm portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, 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 tail tip shall be sent to Jonathan Richmond, U.S. Geological Survey, 4165 Spruance Road, Suite 200, San Diego, CA 92101.</p> <p>The remaining carcass shall be sent to Berkeley Natural History Museum at http://mvz.berkeley.edu/Find_Animal.html or California Academy of Sciences, at Herpetology, (415) 379-5292, or at LScheinberg@calacademy.org.</p>	ITP Condition # 5.8	Entire Project	Permittee	
51	<p>CDFW may issue Permittee a written stop-work order to suspend any activity covered by this ITP for an initial period of up to 25 days to prevent or remedy a violation of ITP conditions (including but not limited to failure to comply with reporting, monitoring, or habitat acquisition obligations) or to prevent the illegal take of an endangered, threatened, or candidate species. Permittee shall comply with the stop-work order immediately upon receipt thereof. CDFW may extend a stop-work order under this provision for a period not to exceed 25 additional days, upon written notice to the Permittee. CDFW shall commence the formal suspension process pursuant to California Code of Regulations, Title 14, section 783.7 within five working days of issuing a stop-work order.</p>	ITP	Entire Project	Department of Fish and Wildlife	
POST-CONSTRUCTION					
52	<p>Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the temporary impact; and (2) temporary impact sites have</p>	ITP Condition # 5.9	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	achieved vegetation success as described in the Vegetation Restoration Plan (see Condition of Approval 7.6).				
53	Temporary Impact Restoration Schedule. Prior to initiating any temporary impacts, Permittee shall ensure that a Temporary Impact Restoration Schedule has been developed that ensures: (1) removal of gravel, recontouring and seeding of temporary impact areas shall occur prior to October 31 of each year where the impacts occur; and (2) all temporary impacts from prior years have met the October 31 recontouring and seeding criteria and have achieved vegetation success as described in the Vegetation Restoration Plan (See Condition of Approval 7.6).	ITP Condition # 5.10	Post-construction	Permittee	
54	Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 4.16	Post-construction	Permittee	
55	Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 5.7	Post-construction and after completion of mitigation	Permittee	
56	CDFW accepts the Final Mitigation Report as complete.		Post-construction	Department of Fish and Wildlife	

Restraint and Handling of Live Amphibians

USGS National Wildlife Health Center

STANDARD OPERATING PROCEDURE

ARMI SOP No. 100

Revised, 16 February 2001

- I. PURPOSE: Provide guidelines for humane handling of amphibians so that injury and distress to the amphibian are minimized.
- II. SCOPE: These guidelines apply to larvae and tadpoles, as well as adult frogs, toads, salamanders and neotenes. Because of their anatomically different and very delicate skin, tadpoles and larvae must be handled differently than post-metamorphic amphibians.
- III. EQUIPMENT and SUPPLIES.
 - A. Standard capture equipment (seine nets, dip nets, minnow traps)
 - B. Clear plastic bags (half liter or full liter size)
- IV. BACKGROUND: There are three main hazards associated with handling live amphibians: two to the amphibian and one to the handler. To amphibians, the main dangers of being handled are skin damage that could result in secondary skin infections, and bone and muscle injuries caused by struggling when being held. For the handler, the main danger comes from toxic skin secretions produced by some amphibians (in the USA, this is mostly newts and the introduced giant/marine toad).

Tadpoles and larvae have thin delicate skin that is very easily damaged by the slightest handling. The skin of larvae lacks keratin and has fewer cell layers than adult amphibian skin. Therefore, direct contact handling of tadpoles and larvae is to be avoided; instead, these amphibian stages are examined through clear flexible plastic bags containing water. Although the skin of adult (post-metamorphic) amphibians has keratin and is less delicate than larval skin, their skin is still much more delicate than the skin of reptiles, birds and mammals. Rough handling of adult amphibians can easily result in skin abrasions, small tears, punctures, erosions and ulcers; normally, minor skin wounds heal quickly, but if contaminants, sewage or high levels of microorganisms are present in the pond or other environment, then wound infections are possible.

Frogs and Toads. All amphibians can be expected to struggle following capture. For anurans, there is a danger that vigorous kicking with the hindlimbs can cause joint dislocations or a

broken (fractured) back; broken backs are a well-documented and major problem in another species that moves by hopping---rabbits. Therefore, proper restraint of anurans, first and foremost involves inhibiting their ability to kick.

Salamanders. For salamanders, there are three major dangers associated with handling: 1) loss (automizing) of the tail, 2) damage to the very delicate external gills (in neotenes), and 3) back injury during whip-like thrashing movements.

V. METHODS OF PHYSICAL RESTRAINT:

- A. Anurans. Medium and large size frogs and toads (those about 5 grams and larger) should be grasped around the waist with the hindlimbs fully extended. The animal should not be allowed to bend (flex) its hip and knee joints, since this would allow it to kick.
- B. Caudates. Medium and large size salamanders (those about 5 grams and larger) should be grasped in the middle of the body between the forelimbs and hindlimbs. Larval and neotenic salamanders should never be grasped around the head or neck, because the gills can be easily damaged. Under no circumstances should salamanders be grasped by the tail or picked up by the tail.
- C. Larvae. All larvae (including tadpoles) should be handled with nets or scoops. For examinations, the larvae should be placed in a clear plastic bag with a mild amount of water. Alternatively, larvae may be sedated with an anesthetic and examined in a dish or bowl of water. As much as possible, larvae should be examined only while they are in water. Larvae should not be grasped with bare hands.

VI. MISHAPS.

- A. Skin wounds: If an amphibian suffers a skin wound during handling, it is recommended that the wound be sprayed with the over-the-counter product, Bactine® (See the SOP on Toe Clipping of Frogs and Toads, NWHC ACUC Protocol 2001-004). All other topical antiseptics and disinfectants (sprays and ointments) are CONTRAINDICATED in amphibians. If possible, the animal should then be released on land rather than into water, since the antiseptic spray would be quickly washed off in water.

- B. Broken back: If a frog or toads suffers a broken back during capture or handling, it should be promptly euthanized. It would be inhumane to release such a crippled animal. An animal with a broken back will have serious damage to the spinal cord and should show almost immediate paralysis of the hindlimbs and tail. Recommended methods of humane euthanasia include (see NWHC ACUC Protocol 1999-009, Methods of Euthanasia):
1. Pithing
 2. Overdosing in anesthetic solutions of MS222 or benzocaine
 3. Application of a benzocaine-based topical ointment (as used by humans to relieve tooth-aches) to the top of the head and dorsum of the body.
- C. Broken leg: If a major bone of a limb is broken during capture or handling, the animal should be euthanized or taken to a wildlife rehabilitation center or veterinarian for treatment. A broken leg bone typically is recognized as an abnormal bend in the leg where there is no joint; other signs of a broken leg bone are protrusion of a bone fragment through the skin, inability of the animal to move a limb or position a leg in its normal resting posture. After treatment, amphibians with broken bones might be given to a zoo or placed in a captive breeding program. Only if the injured amphibian is kept isolated from all other fish, amphibians and reptiles (eg, in a separate cage) during treatment, can it later be considered for release at the point of capture. Injuries to digits (toes and fingers) generally are not life-threatening; if the skin of the injured toe also is wounded, then treatment with Bactine® prior to immediate release is acceptable. If a toe bone is broken and protruding through the skin, the affected toe may be amputated just proximal to the site of the fracture, the stump should be sprayed with Bactine®, and the animal may be released.
- D. Automized tail: If a salamander automizes (detaches) its tail during capture or handling, the stump should be treated (sprayed) with Bactine®; the salamander can then be promptly released.
- E. Crushing injuries to head and body. Amphibians that have serious injuries to skin, muscles and bones should be promptly euthanized. Crushing injuries that are limited to a limb or tail will require treatment at a wildlife rehabilitation center or a veterinary clinic; alternatively, the animal may be euthanized, but it would be inhumane to release a seriously injured amphibian.

F. Snout abrasions. Amphibians that are held in glass or clear plastic containers may jump head-first into the glass, or may rub their snout against the container in attempts to burrow out. If amphibians are held for more than an hour in a clear container (bottle, aquarium, etc), they should be examined for evidence of skin injury at the tip of the snout and elsewhere around the head prior to release. If abrasions are detected, they should be sprayed with Bactine® prior to release.

G. Toxic skin secretions. All amphibians have glands in their skin that secrete a vast number of chemicals; some of which are merely noxious and repellant-like, while others may cause skin or eye irritation, and some may actually kill. The poison-dart frogs of Central America are an example of a frog with toxic secretions that can kill a human. Among the native amphibians of the United States, the two amphibians of greatest concern are giant toads (also called cane toads, marine toads, aka toads; *Bufo marinus*) and western newts of the genus, *Taricha*.

Giant toads secrete a potent white mucoid substance from their parotid glands (large warts just behind the eyes) that affects the heart, but it is not absorbed through the intact human skin; however, the toxin is readily absorbed through the eyes and mouth. Hence, the best way to prevent poisoning is to carefully avoid rubbing the eyes or putting fingers in the mouth after handling a giant toad. If skin secretions of giant toads contact the eye or mouth, then flush promptly with generous amounts of clean fresh water or contact lens wetting solution, and then seek emergency care at a clinic or hospital if stinging or numbness of the eye or mouth develops.

Newts of the genus, *Taricha*, also secrete toxins from their skin; it is presumed that the entire body of these newts secretes toxins (newts and other salamanders do not have parotid glands). Their skin secretions are very irritating to the eyes and mouth.

Temporary blindness (lasting about 24 hrs) has been reported by field biologists that handled newts and then rubbed their eyes. If sensations of blurred vision, or burning or stinging of the eyes occur after handling any genus or species of newt, wash the eyes with copious amounts of fresh clean water (or contact lens wetting solutions) and promptly seek medical care. Persons with newt skin secretions in their eyes are advised not to drive a vehicle or operate other dangerous or heavy equipment.

Finally, it is possible that other amphibian species in the USA besides giant toads and newts, could produce skin secretions that are irritants to the eyes. Furthermore, amphibians may carry some bacteria in their intestines and feces that are human pathogens, such as the bacteria, *Salmonella* and *Leptospira*. Hence, it is always best to practice good personal hygiene after handling any amphibian (namely, thoroughly wash your hands with soap and water).

VII. CITED LITERATURE:

1. MARTIN, D., and H. HONG. 1991. The use of Bactine® in the treatment of open wounds and other lesions in captive anurans. Herpetol Rev 22: 21.

http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp

Green, Earl, D. "Restraint and Handling of Live Amphibians" Standard Operating Procedure. Amphibian Research & Monitoring Initiative, National Wildlife Health Center. United States Geological Survey. 2001.

http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp

ATTACHMENT 3A
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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_____	_____	_____	_____	_____
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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: _____

[Financial institution letterhead]

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

Issue Date: **[date]**

Beneficiary:

California Department of Fish and Wildlife
Habitat Conservation Planning Branch
Post Office Box 944209
Sacramento, CA 94244-2090
Attn: HCPB Contract 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 CDFW pursuant to the terms of the incidental take permit for the **[name of project]** issued by 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 CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. 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 CDFW as defined in paragraph 12 below. Presentation by 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 CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give 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, 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 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/Reduction, 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 CDFW, as defined in paragraph 12 below.
12. An “Authorized Representative” shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Chief of CDFW’s Habitat Conservation Planning Branch.
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 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 CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, Post Office Box 944209, Sacramento, CA 94244-2090, Attn: HCPB Contract 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 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: _____

Telephone: _____

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 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 CDFW that the Credit will not be extended and the Applicant has not provided CDFW with an equivalent security approved by 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. 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, CDFW has executed and delivered this Certificate as of the ____ day of [***month***], [***year***].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

ATTACHMENT B

IRREVOCABLE LETTER OF CREDIT NO. [**number issued by financial institution**]
CERTIFICATE FOR [**insert either: "CANCELLATION" or "REDUCTION"**]

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 Applicant has presented documentary evidence of compliance with the following Mitigation Requirement[(s)] referenced in paragraph 3 of the Credit: [**insert brief description of requirement(s) or requirement number(s) completed**]." **or** "The Applicant has provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. [**Insert one of the following statements:** "CDFW therefore requests the cancellation of the Credit." **or** "CDFW therefore requests a reduction in the Principal Sum in the amount of \$_____, thereby making the new Principal Sum \$_____."]

[**Insert one of the following statements:** "Therefore, CDFW has executed and delivered this Certificate for Cancellation as of the ____ day of [**month**], [**year**]." **or** "Therefore, CDFW has executed and delivered this Certificate for Reduction as of the ____ day of [**month**], [**year**]."]

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

State of California - Department of Fish and Wildlife

MITIGATION PAYMENT TRANSMITTAL FORM

DFW 1057 (NEW 07/28/17)

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

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

4. AGREEMENT/ACCOUNT INFORMATION: (check the applicable type)
☐ 2081 Permit ☐ Conservation Bank ☐ 2835 NCCP ☐ 1802 Agreement ☐ 1600 Agreement ☐ Other _____

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

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

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

b. Habitat Enhancement Subtotal \$ _____

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ _____

2. Letter of Credit Subtotal \$ _____

1. Financial Institution: _____

2. Letter of Credit Number: _____

3. Date of Expiration: _____

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