



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

California Endangered Species Act
Incidental Take Permit No. 2081-2019-060-04

**MILLERTON ROAD IMPROVEMENT PROJECT: WINCHELL COVE ROAD TO
SKY HARBOR ROAD**

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:	Table Mountain Rancheria
Principal Officer:	Dan Ray, Director of Construction and Design
Contact Person:	Ryan Sawyer, (916) 447-3479
Mailing Address:	8184 Table Mountain Road Friant, California 93626

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 **October 1, 2022**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.8 of this ITP.

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

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

Project Location:

The Millerton Road Improvement Project: Winchell Cove Road to Sky Harbor Road (Project) is located approximately 6.5 miles north of the City of Fresno and along Millerton Road which runs a total length of 5.7 miles from east to west. Millerton Road runs from its westernmost extent at North Friant Road in Friant, California, east to its intersection with Auberry Road (Figure 1). Millerton Road is directly south of Millerton Lake and crosses the Friant-Kern Canal approximately 0.5 miles east of Friant (Figure 2). It also runs adjacent to the southern boundary of the Table Mountain Rancheria and is the sole source of access to the Rancheria. Sky Harbor Road provides access to the Table Mountain Rancheria tribal governmental buildings and services. Winchell Cove Road provides access to the Tribe's westernmost trust properties, and also provides access to the Winchell Cove Marina on Millerton Lake. Winchell Cove Road south of Millerton Road becomes Marina Drive and provide access to the Bonadelle housing development.

The Project site is the road segment along Millerton Road between its intersections with Winchell Cove Road and Sky Harbor Road (Figure 3).

Project Description:

The Project involve improvements to the capacity and safety of Millerton Road. The existing Millerton road consists of two 12-foot wide lanes with paved shoulders that vary in length from zero to four feet. The roadway's alignment includes several curves that do not meet the proposed minimum standard of 45 miles per hour (mph), and a segment of the roadway has a grade that exceeds the recommended standard of 7.0 percent. Millerton Road from Winchell Cove Road to Sky Harbor Road consists of flatter terrain with more sweeping bends. Along this segment, the shoulder is narrow and graveled, with a complete absence of a defined shoulder along a portion of the roadside.

The Project site consists of 3.33 acres of ruderal/disturbed and 1.07 acres annual grassland habitat (Figure 3). The ruderal/disturbed habitat consist of golf course frontage and roadside shoulder. Ruderal habitat in front of an adjacent golf course consists primarily of unvegetated and graveled roadside atop compacted dirt. Sparse roadside vegetation consisting of patchy, ruderal species can be seen amongst the gravel and bare ground. The entirety of the 4.40-acre Project site will be subject to ground disturbance, of which 1.07 acres of suitable CTS habitat will be impacted (CTS impact area).

Construction of Roadway Improvements

The Project will expand the approximately 1.0 mile segment of Millerton Road from Winchell Cove Road to Sky Harbor Road to a four-lane arterial roadway with four 12-foot-wide travel

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lanes, two 6-foot-wide paved shoulders that would function as directional bike lanes, and 4-foot-wide treated dirt shoulders. Eastbound and westbound traffic will be separated by a 16-foot-wide median lane. Implementation of the Project will require expansion of the existing right-of-way from a width of approximately 60 feet to 106 feet, except where additional width is necessary for cut and fill slopes. The roadway will be oriented to conform to a minimum design speed of 45 miles per hour (mph) and will conform to a higher design speed (55 mph) wherever possible. The Project will also require the relocation, undergrounding, or removal of electrical, telephone, and water utilities located immediately adjacent to the existing roadway. These activities will occur entirely within the Project site.

The Project will also require the modification of several intersections as described below:

- Winchell Cove Road: The intersection will be reoriented to coincide with the improvements to Millerton Road, and alterations will be made to accommodate slow-moving boat trailers using Winchell Cove Road to access Millerton Lake.
- Brighton Crest Entrance Road: The Project will require modifications of the Brighton Crest entrance road at its intersection with Millerton Road to match the new alignment.
- Sky Harbor Road: The Project will require modifications at Sky Harbor Road at its intersection with Millerton Road to match the new alignment.

Construction of Drainage Improvements

The Project will involve the retention of six existing culverts, and the construction of five new culverts. New culverts will be constructed on the north side of Millerton Road and connected to the existing drainage on the south side. Minor grading to direct runoff will also occur along existing roadside ditches. Impacts related to construction of drainage improvements within the Project site will include the follow:

1. Resizing of existing culverts: In cases where existing culverts are too small to accommodate 100-year runoff events, pipes will be increased in size to a minimum 18-inch pipeline. Exact pipeline sizing will be determined by the "Culvert Master" program and will meet or exceed required pipe sizing as required by the Caltrans Highway Design Manual. This will occur within existing ruderal habitat but will require grading activities within the CTS impact area.
2. Addition of new culverts: New culverts crossing underneath Millerton Road will result in impacts where these features tie in to existing drainage infrastructure. No construction out-of-road will occur beyond the Project site. Culverts will be circular and unlined. Modification of any drainage infrastructure north of Millerton Road will occur on land held in trust by the Tribe. While addition of new culverts will primarily occur within

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ruderal/disturbed habitat, expansion of roadway into the CTS impact area, and grading to facilitate flow will result in ground disturbance in the entire 1.07-acre CTS impact area.

3. Drainage grading: The entirety of the 4.40-acre Project site will be subject to grading activities for roadway construction as well as directing of stormwater runoff. The entirety of the CTS impact area will be subject to grading activities. Therefore, grading associated with drainage improvements will result in impact to the CTS impact area.
4. Erosion control: Temporary erosion control measures such as silt fences and staked straw bales will be employed for disturbed areas and installed by hand. No disturbed surfaces will be left without erosion control measures in place during the winter and spring months.

These activities will occur using the equipment identified below. These activities will result in 0.92 acres of ruderal/disturbed habitat impacted by grading and 2.41 acres of ruderal/disturbed habitat paved. Additionally, these activities will result in grading disturbance to the entire CTS impact area and paving of 0.60 acres within the CTS impact area.

Construction Equipment and Activities

Components of the Project will require general construction activities including grading, excavating, trenching, pipe installation, placement of backfill, and asphalt patching. The follow equipment may be used for construction of the Project: pavement saw; jack hammers; excavators; front-end loaders; 10-wheel dump trucks; bulldozers; trench shields; air compressors; flat-back delivery truck; concrete trucks; sweepers; road grader; paving equipment such as a back hoe, asphalt, hauling trucks, compactors, paving machine, rollers; concrete pumper trucks; welding trucks; and earth mover.

Consistent with the California Department of Transportation's Construction Manual, the Project's modification and expansion of existing infrastructure will follow the general outline below:

1. Installation of high-visibility fencing. High visibility fencing will likely be installed by hand within the Project site prior to groundbreaking in order to delineate the Project site and demarcate items related to public safety or environmental sensitivity.
2. Removal of paving. Stockpiles of salvage materials will not occur on the Project site. Should stockpiling of salvage material be necessary between salvage and use, stockpiling will occur solely on Tribal land held in trust. Vehicles entering and exiting the Project site will be restricted to the existing roadway and the Project site boundaries. Breakage of concrete flooring will occur as needed to prevent entrapment of water. This will occur outside of the CTS impact area.

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3. Grading. Any excavation, backfill, cut and fill, will utilize the equipment described above. Grading is expected to occur within the entire 4.40-acre Project site, which includes the 1.07-acre CTS impact area.
4. Utility alignment. The exact location of utilities will be marked out prior to roadwork. Existing utilities are likely within the existing roadway and shoulder and outside of the CTS impact area. Minimal alignment of utilities may occur within the CTS impact area, but will occur at the time of grading and will not represent an additional impact when considered with grading related the Project.
5. Ditch excavation. There is no roadside ditch along the south side of Millerton Road within the Project site, and the portion of White Fox Creek approaching the Project site will not be altered or impacted. Addition of new ditch excavation is not a portion of the Project. Therefore, ditch excavation will not occur. All activities related to sediment removal will occur with equipment described above for activities related to grading or utility alignment.
6. Roadway paving. Of the 4.40-acre Project site, 3.01 acres will be paved. The Project will result in 0.60 acres of paving within the 1.07-acre CTS impact area and 2.41 acres of paving of ruderal habitat outside of the CTS impact area and within the Project site. While it is possible that grassland habitat will re-establish within the 0.47 acres of grassland graded but not paved, the full 1.07 acres of grassland is treated as though habitat will be removed for the purposes of this ITP application.

Existing public and private utilities and fences will be realigned or removed as necessary in coordination with the responsible companies and private landowners. Equipment staging within the Project site will occur entirely within the existing and proposed right-of-way for Millerton Road and within the Project site. Should the need for additional staging arise, all additional staging will occur entirely on land held in trust by the Tribe and will not impact additional CTS habitat outside of the Project site.

Millerton Road will remain passable to vehicle traffic during construction and will not require staging, vehicle detours, or other disturbance outside of the Project site. Construction is projected to last less than 18 months and is anticipated to begin in early 2020.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name

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1. California tiger salamander (*Ambystoma californiense*)Threatened³

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

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include grading, excavating, trenching, pipe installation, placement of backfill, and asphalt patching (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 equipment strikes during ingress and egress and hauling of materials, collapse or excavation of occupied burrows that results in crushing or suffocation of underground individuals during grading and compaction, entombment of individuals from deposition of stockpiled material or spoils over occupied burrows and during top soil, or soil compaction, grading activities, the capture or entrapment in holes or trenches, excavation of burrow systems, entrapment within barrier fencing constructed around the Project area. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so during capture and relocation of Covered Species out of harm’s way as required by this ITP.

The Project is expected to cause the permanent loss of 1.07 acres of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from earthwork, equipment operation, and traffic; temporary displacement; increased vulnerability to predation, exposure, or stress through disorientation; and loss of burrowing habitat used for shelter and escape cover. Individuals displaced due to habitat loss and degradation may be unable to survive in adjacent areas if these areas are at carrying capacity or are unsuitable for colonization.

Incidental Take Authorization of Covered Species:

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

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

of Covered Species except for capture and relocation of Covered Species as authorized by this ITP.

Conditions of Approval:

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration (SCH No.: 2013101092) adopted by the County of Fresno on December 10, 2013, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Formal Consultation for the Millerton Road Widening Project, Fresno County, California (Biological Opinion No. 81420-2009-F-1206) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
4. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

5. General Provisions:

- 5.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

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- 5.2. Designated Biologist.** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed. Permittee has the option of utilizing a Designated Monitor to assist the Designated Biologist in compliance monitoring under direction/supervision of the Designated Biologist. If Permittee chooses to utilize a Designated Monitor, the Permittee shall submit in writing to CDFW for approval the name, qualifications, business address, contact information, and references of the proposed Designated Monitor. Designated Monitors assist the Designated Biologist as specified in advance and approved in writing by CDFW. Designated Monitors and their activities shall be approved in advance and in writing by CDFW. No agreement/contract between the Permittee, its contractors, and/or the Designated Biologist and/or Designated Monitor shall prohibit open communication with CDFW.
- 5.3. Designated Biologist/Designated Monitor Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist and Designated Monitor 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.
- 5.4. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area.

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Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.

- 5.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- 5.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 5.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 5.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 5.9. Delineation of Property Boundaries. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Work Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. A Work Area is defined as the discrete zone(s) within the Project Site where Covered Activities will actively occur. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities the Work Area.
- 5.10. 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.

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- 5.11. 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 do not exceed 15 mph 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.
- 5.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP.
- 5.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6. Monitoring, Notification and Reporting Provisions:

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

- 6.2. Notification of Non-compliance.** The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 6.3. Compliance Monitoring.** The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist and/or Biological Monitor(s) shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading] are completed.
- 6.4. Monthly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 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 the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative on the 15th of each month, to CDFW's Regional Office, and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Office email is R4CESA@wildlife.ca.gov and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 6.5. Annual Status Report.** If the Project continues beyond 2020, the 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:

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(1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.4; (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.

- 6.6. Covered Species Mortality Reduction and Relocation Plan.** The Designated Biologist shall prepare a Covered Species Mortality Reduction and Relocation Plan (Mortality Reduction and Relocation Plan) and submit it to CDFW for approval prior to the beginning of Covered Activities. The Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area which represents potential upland habitat; the area within 1.3 miles of known or potential breeding habitat for the Covered Species; an identification of survey, capture, handling, and relocation methods; identification of relocation areas; and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Mortality Reduction and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling the Covered Species unless approved in writing by CDFW and under the direct supervision of the Designated Biologist(s).
- 6.7. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.8. Final Mitigation Report.** No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project

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impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

6.9. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and, if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

6.10. Notification of Relocated Covered Species. The Designated Biologist or Designated Representative shall notify CDFW if any Covered Species are relocated pursuant to the Mortality Reduction and Relocation Plan and/or per Condition of Approval 6.6. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, and number of Covered Species taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and, if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information. For relocated animals, the report shall include photos and information regarding the size, weight, life history stage, location of release and any other details required by the Mortality Reduction and Relocation Plan.

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

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- 7.1. Delineation of Ingress and Egress Routes.** All access roads shall be flagged in the field from the paved road and vehicle operation shall be limited by the Permittee to these designated ingress and egress routes.
- 7.2. Work Hours.** Permittee shall confine all construction to daylight hours (sunrise to sunset).
- 7.3. Pre-Activity Clearance Surveys.** No more than 14 days prior to starting ground-disturbing Covered Activities in each Work Area, the Designated Biologist shall survey any portions of the Work Area for Covered Species. These surveys shall provide 100 percent visual coverage of the Work Area and a 50-foot buffer zone. If any life stages (adults, eggs, or larvae) of the Covered Species are found, the Designated Biologist(s) shall relocate them from the Work Area in accordance with the CDFW-approved Mortality Reduction and Relocation Plan prepared in accordance with Condition of Approval 6.6 above. The Permittee shall provide the survey results to CDFW in a written report no more than two (2) days after performing pre-construction surveys.
- 7.4. Covered Species Exclusion Fencing.** Exclusion fencing shall be installed to prevent the Covered Species from moving into the active Work Area(s) prior to any surface disturbance or active use of storage/laydown areas. The Permittee shall submit the exclusion fence design to CDFW for written approval. The Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. Permittee shall install temporary exclusion fencing in accordance with the CDFW approved fence design and only in the particular Work Area where Covered Activities are planned to occur in the immediate future. For example, temporary fencing shall not be installed simultaneously at all Work Areas and shall be removed immediately upon completion of Covered Activities in each fenced Work Area. Exclusion fencing shall not be installed along lengthy linear Work Areas (e.g., access roadways) to prevent impacts to Covered Species dispersing through the area during migratory activities.
- 7.5. Exclusion Fencing Installation.** The Designated Biologist shall accompany the exclusion fence construction crew(s) to ensure that Covered Species are not killed or injured during fence installation. The exclusion fence shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the active construction period. Permittee shall check the exclusion fence at least once weekly and maintain/repair the fence when necessary. Exclusion fence shall be removed immediately upon completion of Covered Activities in each fenced Work Area.

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- 7.6. Record of Handling and Covered Species Reporting.** All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the animal; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 6.7. This information should also be included in the Monthly and Final Compliance Reports.
- 7.7. Fieldwork Code of Practice.** To ensure that the Designated Biologist(s) do not convey disease between Work Areas, the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) shall be followed at all times. The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.
- 7.8. Covered Species Observations.** During all Covered Activities, all workers shall inform the Designated Biologist(s) if a Covered Species is seen within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Work Area of its own accord or the Designated Biologist can relocate the Covered Species following the CDFW-approved Mortality Reduction and Relocation Plan specified in Condition of Approval 6.6 above.
- 7.9. Stockpiles.** Permittee shall place soil stockpiles where soil shall not pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.
- 7.10. Materials Inspection.** Workers shall thoroughly inspect for Covered Species in all construction pipe, culverts, or similar structures with a diameter of 7.6 centimeters (3 inches) or greater that are stored for one or more overnight periods before the structure is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist and allow the animal to safely escape that section of the structure before moving and utilizing the structure. Covered Species may be relocated by the Designated Biologist pursuant to the CDFW-approved Mortality Reduction and Relocation Plan required in Condition of Approval 6.6.

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- 7.11. Equipment Inspection.** Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Work Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved Mortality Reduction and Relocation Plan required in Condition of Approval 6.6.
- 7.12. Open Excavation Inspection.** The Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. The Designated Biologist(s) shall thoroughly inspect all trenches, holes, sumps, and other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Project-related activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall provide the opportunity for the Covered Species to escape unimpeded out of the Work Area before allowing work to continue. Alternatively, if the Covered Species will not leave the Project Area unimpeded, the Designated Biologist(s) shall capture and relocate the Covered Species as per the CDFW-approved Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 6.6, after receiving approval from the CDFW Regional Representative. If, at any time, a Covered Species is found incidentally trapped in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of the incident.
- 7.13. Flag Burrows.** The Designated Biologist(s) shall flag all potential small mammal burrows identified during the Pre-Activity Clearance Survey (Condition of Approval 7.3) within any Work Area and its 50-foot buffer. After flagging is complete, the Designated Biologist(s) shall map all flagged burrows.
- 7.14. Small Mammal Burrow Surveys and Excavation.** The small mammal burrows flagged within the Work Area and burrows that cannot be completely avoided by equipment and vehicles within the 50-foot buffer per Condition of Approval 7.13 shall be fully excavated by the Designated Biologist(s). The Designated Biologist(s) shall relocate any live Covered Species discovered during burrow excavation in

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accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 6.6 above. Excavation shall occur no more than 14 days after the completion of the Pre-activity Clearance Surveys as described in Condition of Approval 7.3 above. The Designated Biologist(s) shall include the locations of all mammal burrow excavations on the burrow map as required in Condition of Approval 7.13 above. The burrow map(s) shall be submitted with the Monthly Compliance Report in accordance with Condition of Approval 6.4.

- 7.15. Rain Forecast.** The Designated Biologist(s) and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area if Covered Activities within Covered Species habitat are scheduled to occur from October 15 through January 15. If a 70 percent or greater chance of rainfall is predicted within 24 hours of Project activity, the Designated Biologist(s) shall survey the Project Area before Covered Activities begin each day rain is forecast in order to capture and relocate Covered Species that are discovered during the surveys. If precipitation begins during Covered Activities, the Designated Biologist(s) shall remain at the Project Area for the duration of the rain event in order for Covered Activities to continue. If rain exceeds $\frac{1}{2}$ inch during a 24-hour period, all Covered Activities shall cease until it is no longer raining, and no further rain is forecast. Covered Activities may continue during rainfall events within Work Areas that have been cleared of Covered Species and enclosed with Covered Species exclusion fencing, in accordance with Conditions of Approval 7.4 and 7.5 above.
- 7.16. Night Work.** All Covered Activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise except when night work is associated with an emergency response (defined by an imminent threat to life or significant property). Permittee shall ensure that all vehicle traffic necessary during nighttime hours associated with an emergency response shall be conducted with extra caution to minimize impacts to the Covered Species. Permittee shall use sunrise and sunset times established by the United States Naval Observatory Astronomical Applications Department for the geographic area where the Project is located.
- 7.17. Covered Species Injury.** Permittee shall bear any costs associated with the care or treatment of Covered Species injured as a result of Project-related activities. Permittee shall identify a CDFW-approved wildlife rehabilitation or veterinary facility or other qualified individual before starting Covered Activities to bring such injured Covered Species for care or treatment. Live injured Covered Species shall be handled and assessed according to the Restraint and Handling of Live Amphibians

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(USGS National Wildlife Health Center, 2001). If an injured Covered Species is found during Project construction, the individual shall be evaluated by the Designated Biologist(s) who shall then immediately contact the CDFW Regional Representative, via e-mail and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, injured Covered Species shall be placed in a shaded container and kept moist, then the following steps shall be taken:

1. If the injury is minor or healing and the Covered Species is likely to survive, the Covered Species shall be released immediately in accordance with the Mortality Reduction and Relocation Plan prepared in accordance with Condition of Approval 6.6. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 6.9.
2. If it is determined that the Covered Species has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility followed by notification as described in Condition of Approval 6.9. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 6.9.

8. Habitat Management Land Acquisition and Restoration: CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall purchase four (4) acres of Covered Species upland habitat credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.1). Purchase of Covered Species credits must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations. The Permittee shall also restore on-site 47.51 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.2 below.

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8.1. Covered Species Credits. Permittee shall (1) purchase four (4) acres of Covered Species credits from a CDFW-approved mitigation or conservation bank, and (2) provide CDFW with a copy of the mitigation or conservation credit certificate issued by the CDFW-approved mitigation or conservation banks. A copy of the credit certificate shall be kept at the Project site while conducting Covered Activities.

8.2. Habitat Restoration. Permittee shall restore on-site Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within two (2) months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to return the temporary construction disturbance on-site to pre-project conditions 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.

9. Performance Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

9.1. Security Amount. The Security shall be in the amount of **\$200,000.00**. This amount is based on the cost estimates identified by CDFW for purchase of bank credits from a CDFW-approved mitigation or conservation bank authorized for the Project.

9.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.

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

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

9.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.

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- 9.6. Security Drawing.** The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 9.7. Security Release.** The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by all required reports and restoration success standards are met.

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.

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Notices:

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

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

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 (2081-2019-060-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Julie A. Vance, Regional Manager
California Department of Fish and Wildlife
Region 4 – Central Region
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4005
R4CESA@wildlife.ca.gov

and a copy to:

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

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Craig Bailey, Senior Environmental Scientist (Supervisory)
 California Department of Fish and Wildlife
 1234 East Shaw Avenue
 Fresno, California 93710
 Telephone (559) 243-4014
 Craig.Bailey@wildlife.ca.gov

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, the County of Fresno. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Initial Study No. 6341, Millerton Road Widening Project, (SCH No.: 2013101092) dated October 2013 that the County of Fresno adopted for the Initial Study No. 6341, Millerton Road Widening Project on December 10, 2013. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's Mitigated Negative Declaration for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Millerton Road Improvement Project: Winchell Cove Road to Sky Harbor Road, 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:

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- (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) credit purchase from a CDFW-approved Conservation Bank; (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 four (4) acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and

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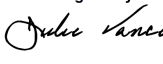
conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

Attachments:

FIGURE 1	Regional Location
FIGURE 2	Project Site and Vicinity
FIGURE 3	Habitat Impact Area
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

On 9/16/2020

DocuSigned by:

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Julie A. Vance, Regional Manager
Region 4, Central Region

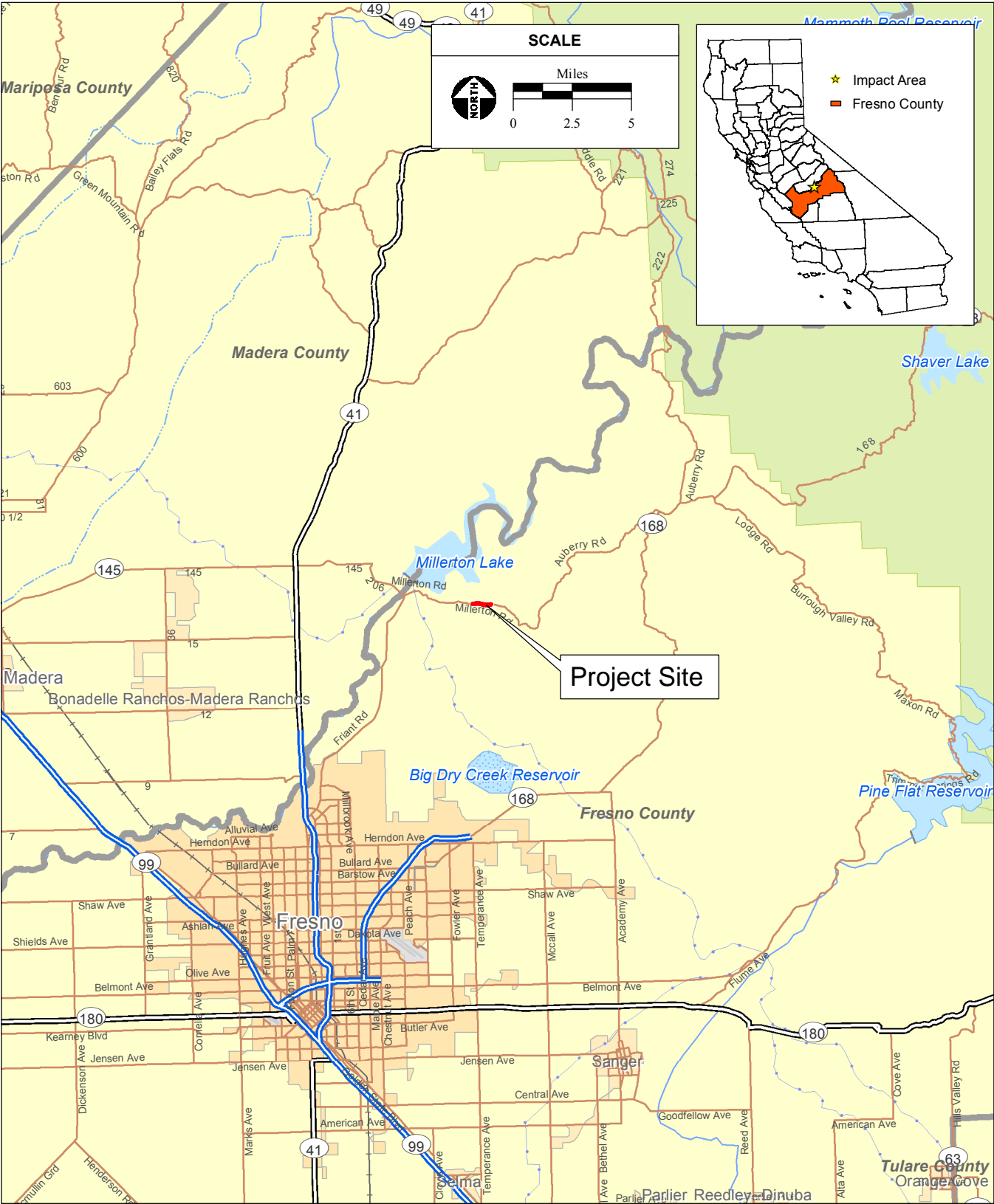
ACKNOWLEDGMENT

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

By:  Date: 9/17/2020
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Printed Name: Dan Ray Title: Director of Construction and Design

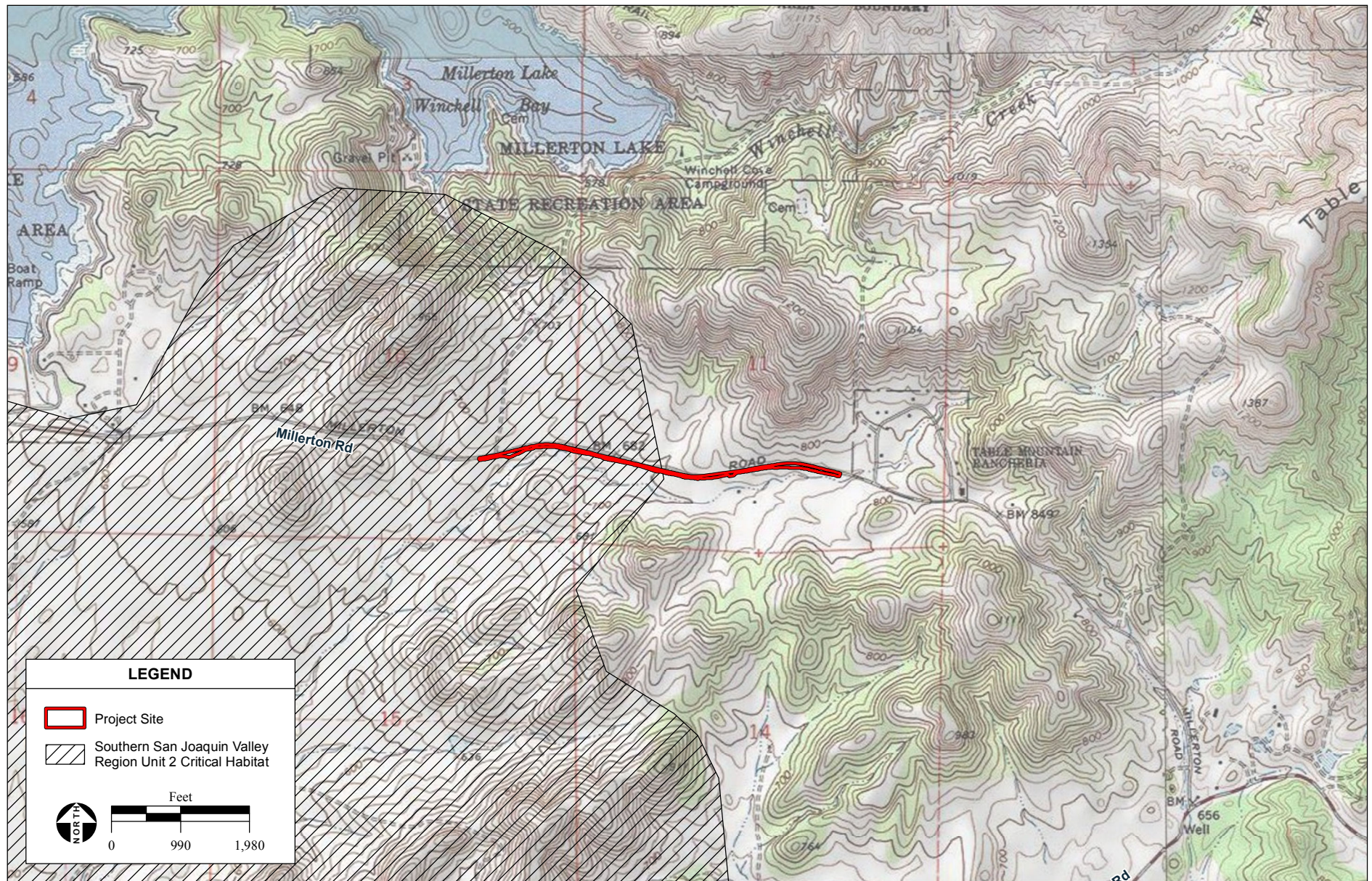
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SOURCE: ESRI World Street Map, 2019; AES, 10/7/2019

Millerton Road Widening Section ITP Application / 214514 ■

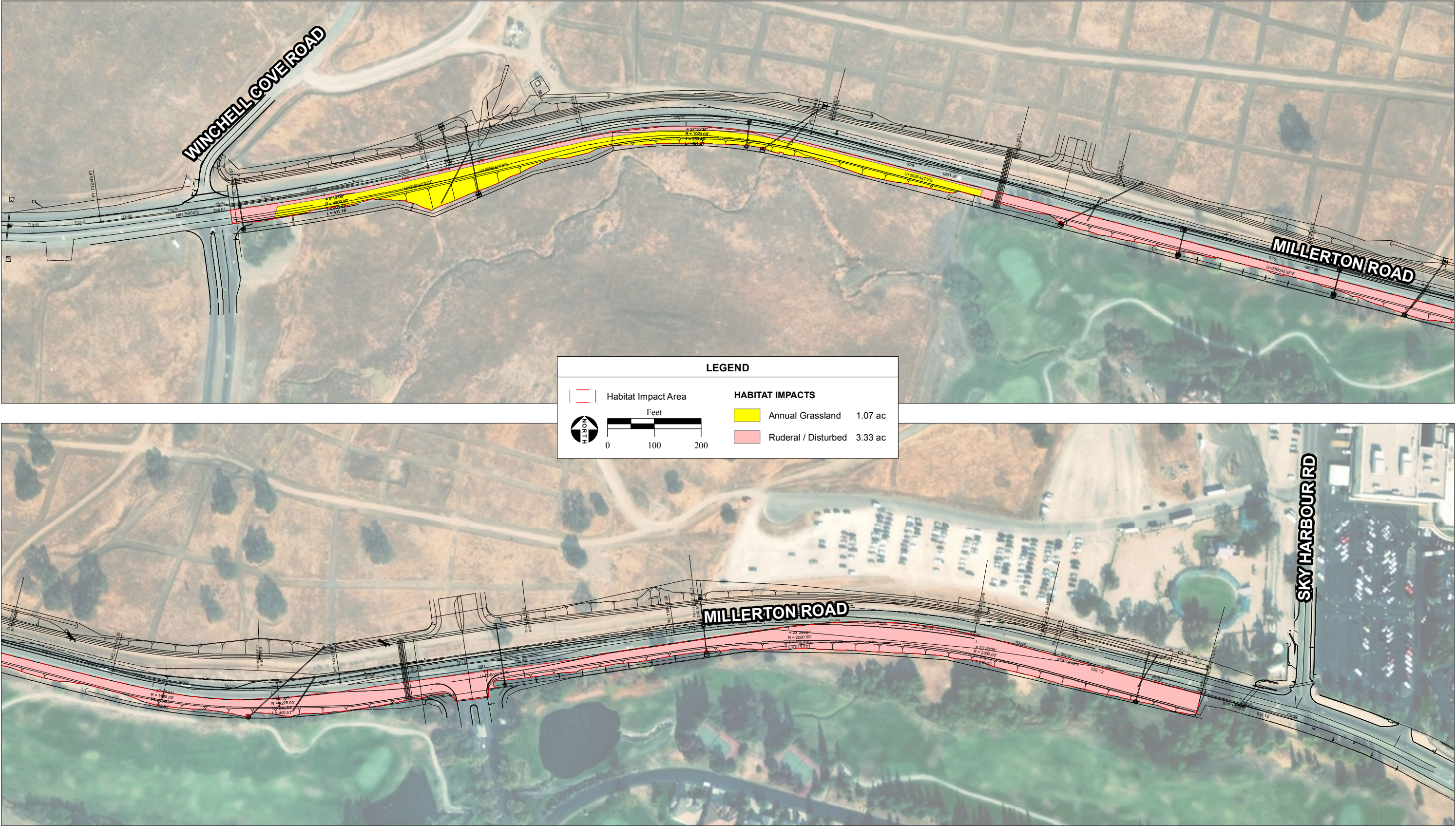
Figure 1
Regional Location



SOURCE: "Millerton Lake West, CA", "Millerton Lake East, CA", "Academy, CA", and "Friant, CA"
USGS 7.5 Minute Topographic Quadrangles T11S R21E, Sections, 1,2,3,4,5,6,7,8,9,10,11,14,15,16,
17,18 and Unsectioned Areas of Table Mountain, Mt. Diablo Baseline and Meridian; AES, 2009

Millerton Road Widening Section ITP Application / 214514 ■

Figure 2
Project Site and Vicinity



SOURCE: Table Mountain Rancheria/Fresno County, 3-6-2019; DigitalGlobe Aerial Photograph 8/25/2016; AES, 10/25/2019

Figure 3
Habitat Impact Area

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2019-060-04

PERMITTEE: Table Mountain Rancheria

**PROJECT: Millerton Road Improvement Project: Winchell
Cove Road to Sky Harbor Road**

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	<u>Designated Representative</u> . Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<u>Designated Biologist</u> . Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed. Permittee has the option of utilizing a Designated Monitor to assist the Designated Biologist in compliance monitoring under direction/supervision of the Designated Biologist. If Permittee chooses to utilize a Designated Monitor, the Permittee shall submit in writing to CDFW for approval the name, qualifications, business address, contact information, and references of the proposed Designated Monitor. Designated Monitors assist the Designated Biologist as specified in advance and approved in writing by CDFW. Designated Monitors and their activities shall be approved in advance and in writing by CDFW. No agreement/contract between the Permittee, its contractors, and/or the Designated Biologist and/or Designated Monitor shall prohibit open communication with CDFW.	ITP Condition # 5.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	<u>Education Program</u> . Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 5.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
4	<u>Trash Abatement</u> . Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 5.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	<u>Dust Control</u> . Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 5.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	<u>Delineation of Property Boundaries</u> . Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Work Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. A Work Area is defined as the discrete zone(s) within the Project Site where Covered Activities will actively occur. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities the Work Area.	ITP Condition # 5.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	<u>Delineation of Habitat</u> . Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 5.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	<u>Notification Before Commencement</u> . The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	<u>Covered Species Mortality Reduction and Relocation Plan</u> . The Designated Biologist shall prepare a Covered Species Mortality Reduction and Relocation Plan (Mortality Reduction and Relocation Plan) and submit it to CDFW for approval prior to the beginning of Covered Activities. The Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area which represents potential upland habitat; the area within 1.3 miles of known or potential breeding habitat for the Covered Species; an identification of survey, capture, handling, and relocation methods; identification of relocation areas; and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Mortality Reduction and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling the Covered Species unless approved in writing by CDFW and under the direct supervision of the Designated Biologist(s).	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
10	<u>Delineation of Ingress and Egress Routes.</u> All access roads shall be flagged in the field from the paved road and vehicle operation shall be limited by the Permittee to these designated ingress and egress routes.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	<u>Pre-Activity Clearance Surveys.</u> No more than 14 days prior to starting ground-disturbing Covered Activities in each Work Area, the Designated Biologist shall survey any portions of the Work Area for Covered Species. These surveys shall provide 100 percent visual coverage of the Work Area and a 50-foot buffer zone. If any life stages (adults, eggs, or larvae) of the Covered Species are found, the Designated Biologist(s) shall relocate them from the Work Area in accordance with the CDFW-approved Mortality Reduction and Relocation Plan prepared in accordance with Condition of Approval 6.6. The Permittee shall provide the survey results to CDFW in a written report no more than two (2) days after performing pre-construction surveys.	ITP Condition # 7.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
12	<u>Covered Species Exclusion Fencing.</u> Exclusion fencing shall be installed to prevent the Covered Species from moving into the active Work Area(s) prior to any surface disturbance or active use of storage/laydown areas. The Permittee shall submit the exclusion fence design to CDFW for written approval. The Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. Permittee shall install temporary exclusion fencing in accordance with the CDFW approved fence design and only in the particular Work Area where Covered Activities are planned to occur in the immediate future. For example, temporary fencing shall not be installed simultaneously at all Work Areas and shall be removed immediately upon completion of Covered Activities in each fenced Work Area. Exclusion fencing shall not be installed along lengthy linear Work Areas (e.g., access roadways) to prevent impacts to Covered Species dispersing through the area during migratory activities.	ITP Condition # 7.4	Before commencing ground- or vegetation-disturbing activities	Permittee	
13	<u>Exclusion Fencing Installation.</u> The Designated Biologist shall accompany the exclusion fence construction crew(s) to ensure that Covered Species are not killed or injured during fence installation. The exclusion fence shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the active construction period. Permittee shall check the exclusion fence at least once weekly and maintain/repair the fence when necessary. Exclusion fence shall be removed immediately upon completion of Covered Activities in each fenced Work Area.	ITP Condition # 7.5	Before commencing ground- or vegetation-disturbing activities	Permittee	
14	<u>Flag Burrows.</u> The Designated Biologist(s) shall flag all potential small mammal burrows identified during the Pre-Activity Clearance Survey (Condition of Approval 7.3) within any Work Area and its 50-foot buffer. After flagging is complete, the Designated Biologist(s) shall map all flagged burrows.	ITP Condition # 7.13	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	<u>Small Mammal Burrow Surveys and Excavation.</u> The small mammal burrows flagged within the Work Area and burrows that cannot be completely avoided by equipment and vehicles within the 50-foot buffer per Condition of Approval 7.13 shall be fully excavated by the Designated Biologist(s). The Designated Biologist(s) shall relocate any live Covered Species discovered during burrow excavation in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 6.6. Excavation shall occur no more than 14 days after the completion of the Pre-activity Clearance Surveys as described in Condition of Approval 7.3. The Designated Biologist(s) shall include the locations of all mammal burrow excavations on the burrow map as required in Condition of Approval 7.13. The burrow map(s) shall be submitted with the Monthly Compliance Report in accordance with Condition of Approval 6.4.	ITP Condition # 7.14	Before commencing ground- or vegetation-disturbing activities	Permittee	
16	<u>Habitat Management Land Acquisition and Restoration.</u> CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. To meet this requirement, the Permittee shall purchase four (4) acres of Covered Species upland habitat credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.1). Purchase of Covered Species credits must be complete before starting Covered Activities, or within 18 months of the effective date of the ITP if Security is provided pursuant to Condition of Approval 9 for all uncompleted obligations. The Permittee shall also restore on-site 47.51 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.2.	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
17	<u>Covered Species Credits.</u> Permittee shall (1) purchase four (4) acres of Covered Species credits from a CDFW-approved mitigation or conservation bank, and (2) provide CDFW with a copy of the mitigation or conservation credit certificate issued by the CDFW-approved mitigation or conservation banks. A copy of the credit certificate shall be kept at the Project site while conducting Covered Activities.	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
18	<u>Habitat Restoration.</u> Permittee shall restore on-site Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within two (2) months of issuance of the ITP, the Permittee shall prepare a Vegetation Restoration Plan to return the temporary construction disturbance on-site to pre-project conditions 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.	ITP Conditions #8.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<p><u>Performance Security</u>. 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> <ul style="list-style-type: none"> • <u>Security Amount</u>. The Security shall be in the amount of \$200,000.00. This amount is based on the cost estimates identified by CDFW for purchase of bank credits from a CDFW-approved mitigation or conservation bank authorized for the Project. • <u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. • <u>Security Timeline</u>. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first. • <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW. • <u>Security Transmittal</u>. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other. • <u>Security Drawing</u>. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of the ITP. • <u>Security Release</u>. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by all required reports and restoration success standards are met. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of the ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 9	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
DURING CONSTRUCTION					
20	<u>Compliance Monitoring.</u> 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 the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP. The Designated Biologist and/or Biological Monitor(s) shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading] are completed.	ITP Condition # 6.3	Entire Project	Permittee	
21	<u>Monthly Compliance Report.</u> The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative on the 15th of each month, to CDFW's Regional Office, and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Office email is R4CESA@wildlife.ca.gov and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 6.4	Entire Project	Permittee	
22	<u>Annual Status Report.</u> If the Project continues beyond 2020, the Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.4; (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 this 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.	ITP Condition # 6.5	Entire Project	Permittee	
23	<u>CNDDB Observations.</u> The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDB) 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 # 6.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
24	<u>Notification of Non-compliance.</u> 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 the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 6.2	Entire Project	Permittee	
25	<u>Notification of Relocated Covered Species.</u> The Designated Biologist or Designated Representative shall notify CDFW if any Covered Species are relocated pursuant to the Mortality Reduction and Relocation Plan and/or per Condition of Approval 6.6. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, and number of Covered Species taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and, if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information. For relocated animals, the report shall include photos and information regarding the size, weight, life history stage, location of release and any other details required by the Mortality Reduction and Relocation Plan.	ITP Condition # 6.10	Entire Project	Permittee	
26	<u>Construction Monitoring Notebook.</u> The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 5.5	Entire Project	Permittee	
27	<u>Erosion Control Materials.</u> Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 5.8	Entire Project	Permittee	
28	<u>Project Access.</u> Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 mph 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 the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 5.11	Entire Project	Permittee	
29	<u>Staging Areas.</u> Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of the ITP.	ITP Condition # 5.12	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
30	<u>Hazardous Waste</u> . Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 5.13	Entire Project	Permittee	
31	<u>CDFW Access</u> . Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 5.14	Entire Project	Permittee	
32	<u>Work Hours</u> . Permittee shall confine all construction to daylight hours (sunrise to sunset).	ITP Condition # 7.2	Entire Project	Permittee	
33	<u>Record of Handling and Covered Species Reporting</u> . All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the animal; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 6.7. This information should also be included in the Monthly and Final Compliance Reports.	ITP Condition # 7.6	Entire Project	Permittee	
34	<u>Fieldwork Code of Practice</u> . To ensure that the Designated Biologist(s) do not convey disease between Work Areas, the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) shall be followed at all times. The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 7.7	Entire Project	Permittee	
35	<u>Covered Species Observations</u> . During all Covered Activities, all workers shall inform the Designated Biologist(s) if a Covered Species is seen within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Work Area of its own accord or the Designated Biologist can relocate the Covered Species following the CDFW-approved Mortality Reduction and Relocation Plan specified in Condition of Approval 6.6.	ITP Condition # 7.8	Entire Project	Permittee	
36	<u>Stockpiles</u> . Permittee shall place soil stockpiles where soil shall not pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.	ITP Condition # 7.9	Entire Project	Permittee	
37	<u>Materials Inspection</u> . Workers shall thoroughly inspect for Covered Species in all construction pipe, culverts, or similar structures with a diameter of 7.6 centimeters (3 inches) or greater that are stored for one or more overnight periods before the structure is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist and allow the animal to safely escape that section of the structure before moving and utilizing the structure. Covered Species may be relocated by the Designated Biologist pursuant to the CDFW-approved Mortality Reduction and Relocation Plan required in Condition of Approval 6.6.	ITP Condition # 7.10	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
38	<u>Equipment Inspection.</u> Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Work Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved Mortality Reduction and Relocation Plan required in Condition of Approval 6.6.	ITP Condition # 7.11	Entire Project	Permittee	
39	<u>Open Excavation Inspection.</u> The Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. The Designated Biologist(s) shall thoroughly inspect all trenches, holes, sumps, and other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Project-related activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall provide the opportunity for the Covered Species to escape unimpeded out of the Work Area before allowing work to continue. Alternatively, if the Covered Species will not leave the Project Area unimpeded, the Designated Biologist(s) shall capture and relocate the Covered Species as per the CDFW-approved Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 6.6, after receiving approval from the CDFW Regional Representative. If, at any time, a Covered Species is found incidentally trapped in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of the incident.	ITP Condition # 7.12	Entire Project	Permittee	
40	<u>Rain Forecast.</u> The Designated Biologist(s) and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area if Covered Activities within Covered Species habitat are scheduled to occur from October 15 through January 15. If a 70 percent or greater chance of rainfall is predicted within 24 hours of Project activity, the Designated Biologist(s) shall survey the Project Area before Covered Activities begin each day rain is forecast in order to capture and relocate Covered Species that are discovered during the surveys. If precipitation begins during Covered Activities, the Designated Biologist(s) shall remain at the Project Area for the duration of the rain event in order for Covered Activities to continue. If rain exceeds ½ inch during a 24-hour period, all Covered Activities shall cease until it is no longer raining, and no further rain is forecast. Covered Activities may continue during rainfall events within Work Areas that have been cleared of Covered Species and enclosed with Covered Species exclusion fencing, in accordance with Conditions of Approval 7.4 and 7.5.	ITP Condition # 7.15	Entire Project	Permittee	
41	<u>Night Work.</u> All Covered Activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise except when night work is associated with an emergency response (defined by an imminent threat to life or significant property). Permittee shall ensure that all vehicle traffic necessary during nighttime hours associated with an emergency response shall be conducted with extra caution to minimize impacts to the Covered Species. Permittee shall use sunrise and sunset times established by the United States Naval Observatory Astronomical Applications Department for the geographic area where the Project is located.	ITP Condition # 7.16	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
42	<p><u>Covered Species Injury.</u> Permittee shall bear any costs associated with the care or treatment of Covered Species injured as a result of Project-related activities. Permittee shall identify a CDFW-approved wildlife rehabilitation or veterinary facility or other qualified individual before starting Covered Activities to bring such injured Covered Species for care or treatment. Live injured Covered Species shall be handled and assessed according to the Restraint and Handling of Live Amphibians (USGS National Wildlife Health Center, 2001). If an injured Covered Species is found during Project construction, the individual shall be evaluated by the Designated Biologist(s) who shall then immediately contact the CDFW Regional Representative, via e-mail and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, injured Covered Species shall be placed in a shaded container and kept moist, then the following steps shall be taken:</p> <ul style="list-style-type: none"> • If the injury is minor or healing and the Covered Species is likely to survive, the Covered Species shall be released immediately in accordance with the Mortality Reduction and Relocation Plan prepared in accordance with Condition of Approval 6.6. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 6.9. • If it is determined that the Covered Species has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility followed by notification as described in Condition of Approval 6.9. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 6.9. 	ITP Condition # 7.17	Entire Project	Permittee	
43	<p><u>Notification of Take or Injury.</u> Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and, if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.</p>	ITP Condition # 6.9	Entire Project	Permittee	
44	<p><u>Designated Biologist/Designated Monitor Authority.</u> To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist and Designated Monitor shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.</p>	ITP Condition # 5.3	Entire Project	CDFW	
POST-CONSTRUCTION					
45	<p><u>Refuse Removal.</u> Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.</p>	ITP Condition # 5.15	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
46	<u>Final Mitigation Report</u> . 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 this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 6.8	Post-construction and after completion of mitigation	Permittee	

Attachment 2

The Declining Amphibian Task Force Fieldwork Code of Practice

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

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