

October 23, 2018

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

Subject: Incidental Take Permit No. 2081-2016-064-03 for the Upper Llagas Creek Project

To whom it may concern:

A California Endangered Species Act (CESA) incidental take permit (ITP) was issued by the California Department of Fish and Wildlife (CDFW) on August 3, 2018 to the Santa Clara Valley Water District (SCVWD) pursuant to Fish and Game Code § 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14 § 783.0 et. seq. Per the cover letter instructions included with ITP, CDFW must receive a signed acknowledgement from the ITP Permittee before the permit can take effect.

Please accept this letter as the signed acknowledgement. The SCVWD's Board of Directors on October 9, 2018 approved and designated, Ms. Norma Camacho, Chief Executive Officer, authorizing her to execute the enclosure ITP (Enclosure 1). The ITP was executed in duplicate form with one duplicate original being retained by the SCVWD with the other original enclosed for CDFW files.

SCVWD staff is requesting written acknowledgement by CDFW that the executed ITP was received by CDFW's Habitat Conservation Planning Branch and that the date for which the ITP is considered effective.

If you have any questions or need any additional information, please contact Melissa Moore at 408-630-2596, mmoore@valleywater.org or myself at 408-630-2677, sferranti@valleywater.org.

Sincerely,



Stephen M. Ferranti, P.E.
Capital Engineering Manager



Enclosure 1: Fully Executed Incidental Take Permit

cc: w/enclosure sent electronically

California Department of Fish and Wildlife - Bay Delta Region
Habitat Conservation Program
Attention: Ms. Brenda Blinn
Senior Environmental Scientist (Supervisory)
7329 Silverado Trail
Napa, CA 94558

California Department of Fish and Wildlife - Bay Delta Region
Habitat Conservation Program
Attention: Ms. Mayra Molina
7329 Silverado Trail
Napa, CA 94558

M. Moore, S. Julian, M. Meredith, PM File 26174054



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

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OCT 29 2018
HABITAT CONSERVATION
PLANNING BRANCH

California Endangered Species Act
Incidental Take Permit No. 2081-2016-064-03

UPPER LLAGAS CREEK PROJECT

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

Permittee:	Santa Clara Valley Water District
Principal Officer:	Stephen M. Ferranti, P.E., Engineering Unit Manager
Contact Person:	Stephen M. Ferranti, (408) 630-2677
Mailing Address:	Santa Clara Valley Water District 5750 Almaden Expressway San Jose, CA 95118

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 31, 2028.**

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 7.9 of this ITP.

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

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

Project Location:

The Upper Llagas Creek Project (Project) is located in southern Santa Clara County, in the communities of Morgan Hill, San Martin, and Gilroy. The Project can be accessed from Interstate 101 via the East Main Avenue exit to the north and via the Buena Vista Avenue to the south. The overall project consists of seven reaches (Reaches 4, 5, 6, 7A, 7B, 8 and 14; Figure 1).

Project activities covered under this ITP are limited to a small of portion of Reach 7A (north of Watsonville Road), Reach 7B and the southern portion of Reach 8 (just south of West Main Avenue) in Morgan Hill (Figure 2). Reaches 7A, 7B and 8 are located on West Little Llagas Creek and total approximately 2.9 miles in length.

Project Description:

The Project will provide 1-percent flood exceedance (100-year flood) protection on West Little Llagas Creek through the community of Morgan Hill, assure no induced flooding on Llagas Creek by upstream modifications along the reaches downstream of Morgan Hill, and provide 10-percent flood exceedance (10-year flood) protection on East Little Llagas Creek.

Major elements of the Project include the construction of flood protection and geomorphic features using sinuous low-flow creek channels with floodplain benches at bankfull elevation; construction of access roads for maintenance purposes; installation of a permanent 6-foot vinyl chainlink fence; vegetation removal; and habitat enhancement.

Flood Protection and Geomorphic Features

- Construction of a 2,100-foot-long high-flow underground bypass tunnel through Nob Hill on West Little Llagas Creek between Warren Avenue and Del Monte Avenue within Reach 8, to re-route high flows away from downtown Morgan Hill;
- Widening (approximately 30-60 feet) and deepening (approximately 4-5 feet) of the West Little Llagas stream channel (except in the portion of Reach 8 where the underground tunnel will bypass high flows through downtown Morgan Hill) by excavating back one bank (the bank side to be excavated will alternate as needed to minimize loss of existing vegetation);
- Construction of grade control structures composed of natural boulders in all reaches to arrest channel incision and step pools;
- Relocation/replacement of utilities within the Project construction footprint;
- Construction of a parallel culvert at four road crossings in Reach 7B;
- Construction of a culvert in West Little Llagas Creek along Hale Avenue in Reach 8;

The channel top width along Reach 7B will range from 80 feet to 120 feet and will be excavated approximately 12 feet to 16 feet deep with 2H:1V, 3H:1V, or 6H:1V side slopes. The channel bottom will measure approximately 12 feet in width. Benches will occur predominantly on one side of the channel, with widths varying between 10 and 30 feet.

While the newly constructed tunnel in Reach 8 will divert high flows from the existing creek, low flows will continue in West Little Llagas Creek (as currently exists in the pre-Project condition).

In addition to the tunnel bypass, the main design features in Reach 8 include:

- A 36-inch diameter reinforced concrete pipe (RCP) culvert that will be constructed paralleling Hale Avenue, stretching from the upper portion of Reach 8 and discharging into existing West

- Little Llagas Creek south of West Main Avenue. Low flows up to 50 cubic feet per second (cfs) will continue to be conveyed in the existing creek with high flows entering the culvert.
- Two high-flow bypass culverts that will be constructed to convey high flood flows to the tunnel bypass. One will measure 10 feet by 8 feet in size, while the other will measure 10 feet by 9 feet in size. Both culverts will extend from the weir structure parallel to Hale Avenue and stretch approximately 2,750 feet to Warren Avenue.
 - Double box culverts (one measuring 10 feet by 8 feet in size, the other measuring 10 feet by 9 feet in size) that will be constructed at the boundary of Reach 8 and Reach 7B, from the tunnel outlet at West Dunne Avenue to downstream of Ciolino Avenue where high flows from the bypass will confluence with the low flows within the existing West Little Llagas Creek.

The staging area for vehicles and equipment associated with Project construction will be located within Reach 8 adjacent to the intersection of Hale Avenue and West Main Avenue in downtown Morgan Hill (located within Pacific Gas and Electric Company's existing electrical substation land).

Access and Maintenance Features

- Construction of permanent aggregate-based roads to provide access to future maintenance sites. Maintenance roads will measure 18 feet in width at the top of both banks and total approximately 13,038 linear feet in length (5,644 linear feet on the left bank and 7,394 linear feet on the right bank). Maintenance roads will total approximately 3.86 acres. The majority of the roads (13,001 linear feet) are located in Reach 7B with the remainder (37 linear feet) in Reach 7A. No maintenance roads will be installed in Reach 8.
- Access points for constructing and accessing the maintenance roads will be provided at Watsonville Road, La Crosse Drive, Edmundson Avenue, Edes Street, Spring Avenue, Cosmo Avenue, and Dunne Avenue;
- Fence installation and repair;
- Vegetation removal (instream and non-instream herbicide use; pruning using mechanized and non-mechanized hand tools; and hand removal of vegetation) along new maintenance roads, fence lines, and other non-instream areas;
- Cleaning of sediment, rocks, dirt, and debris at new culverts.

Habitat Enhancement

Habitat enhancement features associated with other permit requirements will include installation of instream complexity features such as large woody debris, root wads, divider logs, and boulder clusters; installation of log piles for wildlife use within the riparian corridor; removal of invasive vegetation such as Himalayan blackberry (*Rubus armeniacus*) and giant reed (*Arundo donax*); installation of infill riparian plantings; and removal of legacy concrete rubble, trash, and debris at various sites within the Project area.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
California Tiger Salamander (<i>Ambystoma californiense</i>)	Threatened ³

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

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 to upland habitat and non-breeding aquatic dispersal habitat, include: initial site preparation; heavy equipment operation; vehicle and foot traffic, including traffic associated with accessing in-channel construction and maintenance sites; grading; excavation; trenching; construction of access roads (maintenance of these roads is not covered under this ITP); handling of stockpiles and stored materials; installation of culverts, grade control structures, and instream flow structures; creek channel modifications; sediment trap and inlet weir construction; culvert cleaning; vegetation removal including herbicide use, hand pruning, hand removal, and mowing; sediment removal; fence installation and repair; drainage swale construction; installation of instream habitat complexity structures; use of night lighting; stream gauge installation; removal of legacy trash and rubble; and/or relocation activities prescribed by this ITP (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as destruction of burrows that the Covered Species inhabit; being crushed under moving vehicles and equipment; disturbance in the vicinity of burrows; and desiccation or predation along fence lines and other barriers to movement. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so from capture and relocation attempts as required by this ITP. Relocation could, absent implementation of protective measures, result in mortality, injury, and/or disease transmission to Covered Species by individuals involved in the relocation effort. The area where authorized take of the Covered Species is expected to occur is contained within the 25.61-acre Project construction footprint and equipment staging area, and along access routes (collectively, the Project Area).

The Project is expected to result in a total of 25.61 acres of impacts to upland and aquatic dispersal habitat for the Covered Species. Impacts to Covered Species habitat will include 3.86 acres of semi-permanent impacts due to construction of access roads and 21.75 acres of temporary impacts. Access roads will not be maintained post-construction as part of this ITP (separate take authorization will be needed) and are expected to support some fossorial mammal activity within two years of the initial impact.

Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from construction noise and vibrations and from capture and relocation; temporary and semi-permanent habitat loss; and long-term effects due to increased pollution, increased competition for food and space, and increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

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

Incidental Take Permit
No. 2081-2016-064-03
SANTA CLARA VALLEY WATER DISTRICT
UPPER LLAGAS CREEK PROJECT

Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for capture and relocation of Covered Species as authorized by this ITP.

Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vehicular ingress and egress, staging and parking, and noise and vibration generating activities that may 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 Upper Llagas Creek Project Final Environmental Impact Report (SCH No.: 2012102032) adopted by the Santa Clara Valley Water District on June 10, 2014 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), unless otherwise conditioned herein.
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. 1600-2015-0356-R3) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Biological Opinion (file number 08ESMF00-2016-F-0721) (not yet issued) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
6. **General Provisions:**
 - 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

Incidental Take Permit
No. 2081-2016-064-03
SANTA CLARA VALLEY WATER DISTRICT
UPPER LLAGAS CREEK PROJECT

- 6.2. Designated Biologist(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- 6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 6.3.1. Permittee shall accommodate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP due to a conflict with Project construction then the Designated Biologist shall notify the CDFW representative immediately.
- 6.4. On-Site Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- 6.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Plastic water bottles and plastic bags shall be picked up and removed daily.

- 6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.
- 6.8. Erosion Control. All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Permittee shall utilize erosion control measures throughout all phases of the Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a drainage, stream, or ponded area. No phase of the Project that may cause the introduction of sediments into a drainage, stream or ponded area may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to the startup of any phase of the Project that may result in sediment runoff to a drainage, stream, or ponded area. The Designated Biologist shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately. Following completion of the Project, Permittee shall implement erosion control measures for all disturbed areas, which may include reseeding using a noxious weed-free locally native seed mix, hydroseeding, jute matting, or tackifying agents to stabilize soils, dust control, and prevent erosion.
- 6.9. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as plastic or mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat. Tightly woven silt fencing material or woven organic materials such as coir logs (without mono-filament netting) shall be permitted.
- 6.10. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, state, or federal law enforcement officials.
- 6.11. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 6.12. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the 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.
- 6.13. Additional Impacts to Habitat. No take beyond the semi-permanent loss of 3.86 acres of habitat for the Covered Species and temporary loss of 21.75 acres of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts.
- 6.14. 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. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

- 6.15. Staging Area. 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. This shall not limit the Permittee's ability to use staging areas not containing Covered Species habitat in portions of the Project footprint located outside of the Project Area. Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.12 of this ITP.
- 6.16. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 6.17. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.18. Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. The construction schedule shall identify the approximate beginning and completion date of Project activities. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven (7) days prior to the changes being implemented.
- 6.19. 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.
- 6.20. Vegetation Restoration. Permittee shall prepare a Vegetation Restoration Plan (Restoration Plan) to restore Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions (see also Condition 9.6). Permittee shall submit the Restoration Plan to CDFW for approval within at least 15 days prior to the start of Project ground disturbing activities. The Restoration Plan shall include results of soil analysis which will include ground-truthing soil conditions (e.g., type, texture, chemical composition and pH) by taking a soil sample and submitting the sample to an analytical lab. The Restoration Plan shall identify plant species damaged or removed during Project activities. The Restoration Plan shall include the following restoration standards:

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

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

- Gravel shall be removed from restored areas;
- Permittee may import and place up to three (3) feet of soil in compacted areas to increase the potential for vegetation establishment. Fill shall not be placed for purely aesthetic purposes, as fill has the potential to result in unnecessary and avoidable take of Covered Species. The upper one (1) foot of fill shall consist of topsoil;
- To the maximum extent feasible, topsoil shall be salvaged from within on-site work areas prior to construction. Imported fill soils shall be limited to weed-free topsoil similar in texture, chemical composition and pH to soils found at the reference site. At least two soil samples from each off-site fill source shall be submitted to a soil sampling lab for analysis. If Permittee chooses to import fill from an off-site location, CDFW and the property owner(s) shall be notified of the source of the fill at least 30 days in advance and shall be given the opportunity to inspect the fill and its source. If the fill source is deemed to be inappropriate (*e.g.*, the type of soil is inappropriate or the soil would be sourced from a site with a major weed infestation), CDFW may require an alternative source of fill;
- Drivers might attempt to use adjacent shoulders for parking or to avoid ruts that form in roadways. Therefore, to protect restored habitat adjacent to permanent roads, permanent roads shall be kept in good repair, and barriers or fill shall be placed between the edge of the road and restored shoulders at the same grade to restrict vehicular access;
- Minor re-contouring may be conducted; however, Permittee shall limit grading, compaction, fill, and all other earthmoving activities to the Project Area. Soils shall be protected from wind erosion using a biodegradable erosion control blanket or appropriate mulch cover (*i.e.* hydroseed or mulch) until vegetation is established. Seed shall be applied in the early fall, between October 15 and October 31. If feasible, seed shall be applied immediately prior to the first rain event;
- Permittee shall pre-designate each restoration area for establishment of a specific native vegetation community, based on slope, aspect, hydrological conditions, and if applicable, adjacent native vegetation. The seed mix for each restoration site shall be tailored to achieve the species composition of the pre-designated

vegetation community. The distribution of vegetation communities within the restoration area shall be roughly proportionate to any native vegetation communities impacted. Following restoration, the species composition of each restoration site shall closely match that of the associated reference site;

- Seed mixes shall include only locally native species at a ratio appropriate to the site, with an emphasis on native bunchgrasses and other grassland species. Local native wildflower may also be included in the mix. Seed may be collected from within the Project Area. Additional seed shall be sourced from within 50 miles of the Project Area (*i.e.*, original genetic material shall have been collected within this radius); however, the seed may be purchased from a seed farm outside of this area. For seeding and mulching exposed slopes, the seed blend may include one or two sterile non-native perennial grass species.
- Permittee shall complete seeding as soon as possible, but no later than October 31 of the year of the impact. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.
- No more than 5 percent (%) of the vegetation in each restoration site shall consist of species designated as high or moderate invasive plants in the California Invasive Plant Council's (Cal-IPC) *California Invasive Plant Inventory Database* (<http://www.cal-ipc.org/paf/>). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner.

6.21. Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: <http://www.cal-ipc.org/ip/prevention/index.php> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <http://www.protectyourwaters.net/>.

6.22. Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the impact, and no additional ground disturbing activities shall occur; (2) if the impact area is within 1,000 feet of an aquatic feature, all work shall be completed within this area and exclusion fencing shall be removed by October 31 of the same calendar year, allowing the Covered Species unrestricted access between upland and aquatic habitat; and (3) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (see Condition of Approval 6.20).

6.23. Emergency Response Plan. Before the onset of work, Permittee shall prepare an Emergency Response Plan describing actions that will be taken in case of a fire or other natural disaster or in case of a human-generated disaster, such as a spill or release of hazardous materials. An emergency phone tree, including contact information for all appropriate disaster management agencies and natural resources agencies, shall be

included in the plan and should be posted on-site in a visible location. The Emergency Response Plan shall specify containment procedures for hazardous substances, with emphasis on avoidance of the aquatic features at the Project site.

- 6.24. Wildfire Prevention. If the Project site is within a high or very high Fire Hazard Severity Zone (refer to <http://frap.fire.ca.gov/projects/hazard/fhz.html>) or the risk of fire danger is high based on 7-day predictions from National Oceanic and Atmospheric Administration forecasts, Permittee shall mow access pathways, staging areas and work areas before allowing heavy equipment and vehicles to access the site. Non-living vegetative debris shall be cleared from around the immediate work footprint, and basic fire suppression supplies shall be kept on-site at all times. Disking and/or tilling are not permitted for fire prevention without prior written permission from CDFW.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.2. Notification of Non-compliance. The Designated Representative and Designated Biologist shall immediately notify CDFW in writing if it determined that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative and Designated Biologist shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of twice per week during periods of inactivity and after clearing, grubbing, and grading are completed.
- 7.4. Photo Monitoring. No less than 10 photo monitoring stations shall be established to provide representative views of Project, construction and restoration activities. Photo monitoring station results shall contribute to the assessment of temporary impacts and restoration work by CDFW; therefore Permittee should ensure that photo monitoring stations numbers and locations are sufficient to document temporary impacts and restoration success. Photo monitoring shall be done as follows:
- 7.4.1. Stations should be located in areas that allow for unobstructed views and a field of vision of approximately 2,000 feet.

- 7.4.2. At least one photograph shall be taken at all stations prior to ground-breaking activities, and each month thereafter until construction and initial restoration is complete. Photo documentation of restoration success shall occur every three months following initial restoration until restoration success criteria are reached.
- 7.4.3. Photo monitoring station locations shall be provided to CDFW in a geographic format with the coordinate system identified.
- 7.4.4. If CDFW or the Designated Biologist(s) determines that additional monitoring stations are necessary, the locations shall be added to the inventory of photo monitoring stations.
- 7.4.5. During each photo monitoring cycle, all stations shall be visited within two days.
- 7.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall detail approximate Project impacts in acres, separated into semi-permanent and temporary impacts. The reports shall: (1) identify and describe the temporary and semi-permanent impacts to date; (2) describe the location, acres, and type of restoration actions that have occurred; and (3) include all monitoring information required by the Vegetation Restoration Plan described in Condition of Approval 6.21. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Mayra Molina (mayra.molina@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 7.6. CDFW Review of Monthly Report. If CDFW determines in writing that the take authorization for temporary impacts has been exceeded, Permittee shall cease all new construction activities until appropriate take authorization has been provided, if so directed in writing by CDFW. If CDFW determines in writing that take authorization for temporary impacts is likely to be exceeded in the coming month, Permittee shall revise the Project construction schedule (see Condition of Approval 6.18) in order to ensure temporary impacts meet the temporary impact criteria according to Condition of Approval 6.22. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.
- 7.7. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.5; (2) a general description of the status of the Project Area and

Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and semi-permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species. ASRs shall be submitted to CDFW's Regional Office at the office listed in the Notices Section of this ITP and via e-mail to CDFW's Regional Representative Mayra Molina (mayra.molina@wildlife.ca.gov).

- 7.8. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.9. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 7.10. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW's Regional Representative Mayra Molina via email at mayra.molina@wildlife.ca.gov and via telephone at (707) 428-2067. 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.
- 7.11. Covered Species Mortality. If the Covered Species is found recently deceased, a ½- inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to CDFW Bay Delta

Region, Attention Mayra Molina, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534. The remaining carcasses shall be delivered to the CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road Suite D, Rancho Cordova, CA 95670 within 24 hours of the discovery.

8. Take Minimization Measures:

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

- 8.1. Seasonal Work Window. Permittee shall limit ground-disturbing Covered Activities involving construction and heavy equipment use (such as excavation, road construction, grading, trenching, and culvert installation) to the period between May 1 and October 15 until the expiration of this ITP.
- 8.2. Dry Season Work Restriction. During the Dry Season of May 1 to October 15 of each year until the expiration of this ITP, Permittee shall limit Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and contouring) to periods of low rainfall (less than 0.10 inches per 24-hour period). If rain exceeds 0.10 inches during a 24-hour period, work shall cease. Construction may resume 24 hours after the rain ceases when there is a less than a 40 percent chance of precipitation in the 24-hour forecast, and humidity, as measured locally on-site under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept on-site and subject to inspection.
- 8.3. Time of Day Work Restriction. Permittee shall terminate all Covered Activities 30 minutes before sunset and shall not resume Covered Activities until 30 minutes after sunrise with the exception of deliveries that cannot feasibly be made during the day due to size of delivery, traffic, or other constraints. Such deliveries shall include access within the Project Area via established roadways and unloading within existing graded areas. Any Project work outside of these hours must be approved by the CDFW Representative in writing. No earthmoving activities or overland travel shall take place during night-time work. All night-time work and construction-related traffic shall be suspended during rain events. Artificial lighting shall be limited in extent, duration, and brightness to the maximum extent feasible, be faced downward and only be utilized in the immediate workspace. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for determining when Covered Activities shall terminate and resume.
- 8.4. Vehicle Speed Limit. Permittee, Designated Biologist(s) and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 20 miles per hour when traveling through the Project area.
- 8.5. Inspection of Refuge Habitat. All potential refuge features (e.g. debris piles), created as a result of the Project shall be inspected by the Designated Biologist for the Covered Species prior to removal. The Designated Biologist shall inspect the debris piles for the Covered Species as the debris is being loaded to trucks. .

- 8.6. Temporary Covered Species Barrier. Prior to beginning Covered Activities, Permittee shall install a temporary barrier along the limits of temporary vehicle staging areas, initial grading areas and other disturbance areas to prevent the Covered Species from dispersing into the Project Area. The barrier shall be designed to prevent Covered Species from entering the work area, while allowing trapped individuals to leave the work area, and shall remain in place until all construction activities have been completed. The barrier shall consist of fencing at least three feet tall and buried to a depth of a minimum of four inches below the soil surface. Barrier support stakes shall be restricted to the side of the work area (no stakes on the side opposite of the work area) to prevent the possibility of Covered Species using the posts to climb over the fence. Holes or burrows, which appear to extend under the barrier, shall be blocked to minimize Covered Species movement under the barrier. The Designated Biologist (or other trained staff during periods when no covered Activities occur) shall inspect the barrier daily, and before, during and after storm events. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Permittee shall provide refuge opportunities, such as cover boards (3-foot x 3-foot plywood), along the silt fencing on both sides of the barrier. The Designated Biologist shall inspect refuge areas each morning during and after rain events. Animals found within the interior fence shall be relocated outside the fence line no more than 300 feet from the Project boundary. Covered Species found shall be relocated by the Designated Biologist per the Relocation Plan described in Condition of Approval 8.11.
- 8.7. Trench Escape and Inspection. The Designated Biologists and trained construction foreman/manager, supervised by the Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning of each day for trapped animals. To prevent inadvertent entrapment of Covered Species, the Designated Biologist(s) shall oversee the covering of all trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that Covered Species are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. Each morning prior to beginning Covered Activities and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) and/or construction foreman/manager shall thoroughly inspect them for Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately if any worker discovers that Covered Species have become trapped. If at any time a trapped Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per the Relocation Plan described in Condition of Approval 8.11.
- 8.7.1. If the open holes, sumps, trenches or excavations cannot be covered then a temporary barrier shall be installed around any trenches, holes, sumps, or other excavations to prevent Covered Species from becoming trapped.

- 8.8. Inspection of Pipes and Culverts. All construction pipes, culverts, or similar structures that are stored at the Project site for one or more overnight periods shall be securely capped prior to storage or inspected by the Designated Biologist before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a Covered Species is discovered inside a pipe by the Designated Biologist or anyone else, the Covered Species shall be allowed to leave its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area and in accordance with the Condition of Approval 8.11.
- 8.9. Vehicle and Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Permittee shall contact the Designated Biologist to determine if the Designated Biologist can safely move the Covered Species in Accordance with Condition of Approval 8.11 below.
- 8.10. Prohibited Plant Species. Permittee shall not plant, seed or otherwise introduce invasive exotic plant species. Prohibited exotic plant species include those identified in the California Exotic Pest Plant Council's database, which is accessible at: <http://www.cal-ipc.org/paf/>.
- 8.11. Covered Species Relocation Plan. Permittee shall develop a Relocation Plan for Covered Species and submit it to CDFW for approval prior to ground-disturbing activities occurring within 1.3 miles of known Covered Species breeding pools or in suitable upland habitat. Permittee shall quantify the amount, relative location, and quality of suitable habitat (e.g., breeding, upland, and dispersal habitat) including invasive and non-native species present, available upland burrows, and potential barriers for movement. The Designated Biologist shall relocate any Covered Species individuals within the Project Area impacted by Covered Activities to an active rodent burrow system or appropriate breeding pond located no more than 250 feet outside of the work area and described in the Relocation Plan, unless otherwise approved in advance by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 8.17). The Designated Biologist shall contact CDFW's Regional Representative within one working day of any relocation incidents. Incidents that do not result in mortality shall be reported in the monthly and final compliance report. At a minimum, the report of the incident shall include the time, location, and circumstances that led to the Covered Species being discovered and confined; the location where the Covered Species was relocated; and photographs of the animal including the ventral and lateral as well as the dorsal surfaces. All locations shall be geo-referenced and detailed in text.
- 8.12. Decontamination of Clothing and Equipment. Any equipment that enters the water during construction shall be decontaminated before and after construction using USFWS guidance to prevent the spread of aquatic diseases and invasive aquatic species.⁴ All equipment parts that may come into contact with the water, such as vehicle treads, buckets, etc., shall be decontaminated. Repeat decontamination is required only if the equipment is removed from

⁴ Refer to: U.S. Fish and Wildlife Service, August 2005. *Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog*, Appendix B - Recommended Equipment Decontamination Procedures.

the site, used within a different aquatic feature, and returned to the Project Area. Decontamination shall take place in an upland location, and any chemicals used during decontamination shall be prevented from entering aquatic features. Workers shall also decontaminate waders, boots, and other clothing that comes in direct contact with the water.

- 8.13. Pre-Construction Surveys. Prior to initiating Covered Activities, the Designated Biologist shall perform pre-construction surveys within the boundaries of the Project Area plus a 50-foot buffer zone around the construction area. The Designated Biologist(s) shall complete walking surveys of the Project Area prior to any ground-disturbing activity (such as soils deposition areas, road construction or improvement sites, or fence installation/repair sites), and shall follow earthmoving equipment to look for Covered Species during initial site grading. Grading activities shall be done in a manner that allows Designated Biologists to safely survey the area for Covered Species. A Designated Biologist shall survey the open areas adjacent to ongoing grading or scraping as the footprint expands. Multiple biologists may be necessary to survey the area appropriately. The Designated Biologist shall survey suitable habitat features, such as aquatic and upland areas and beneath woody debris, for Covered Species. The Designated Biologist shall conduct pre-construction surveys in conjunction with exclusion fencing installation (see Condition 8.6). If the Designated Biologist(s) or anyone else discovers Covered Species, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition of Approval 8.11).
- 8.14. Delineation of Burrow Complexes. The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Condition 8.13) and within 100 feet of the Project footprint with posted signs, posting stakes, flags, and/or rope or cord. Signs, stakes, flags, and/or rope shall be clearly distinguishable from markings used to delineate work areas.
- 8.15. Pre-Construction Burrow Identification. The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of new roads, electrical collection lines, or turbine pads with flagging no-less-than five days prior to earthmoving activities in those areas. All burrows shall be avoided to the maximum extent practicable during earthmoving activities.
- 8.16. Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a suspected non-native barred tiger salamander (*Ambystoma tigrinum mavortium*) or California tiger salamander/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 8.17).
- 8.17. Covered Species Handling and Injury. If an injured Covered Species is found during the Project term, the Designated Biologist shall evaluate the individual and immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the Designated Biologist shall place the injured individual in a safe and shaded location. Any injured Covered Species shall be placed in a shaded container and kept moist, and shall be handled and assessed according to the *Restraint and Handling of Live Amphibians*, USGS, National

Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001; http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp). If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken:

- 8.17.1. If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately (see Condition of Approval 8.11);
 - 8.17.2. If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum or another CDFW-approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and USFWS. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.10.
 - 8.18. Soil Stockpiles. Permittee shall place soil stockpiles where soil will not pass into potential Covered Species breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 *et seq.* Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.
 - 8.19. Covered Species Checks. Before the start of work each morning, the Designated Biologist shall check for Covered Species individuals under all vehicles, equipment, materials, or otherwise suitable locations for salamanders to hide. Workers shall inspect under vehicles and equipment for Covered Species before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist. The Designated Biologist shall follow initial grading equipment to look for Covered Species. All ruts and holes near root structures, foundations, abutments, etc., shall be inspected for Covered Species prior to and during excavation or removal. If a Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the individual as required by Condition of Approval 8.11.
 - 8.20. Invasive Species. Any bullfrogs (*Lithobates catesbeianus*) encountered during construction or monitoring shall be permanently removed from the wild. Pursuant to Fish and Game Code, section 6854, it is unlawful to take bullfrogs using firearms of any caliber or type. BB or pellet guns are prohibited. CDFW may issue a permit to take and dispose of frogs under such limitations as the Commission may prescribe (Fish and Game Code, § 6854). Permittee may not introduce predatory fishes (including but not limited to largemouth bass, redear sunfish, bluegill, catfish, mosquitofish, and fathead minnows) or amphibians (including but not limited to bullfrogs, barred tiger salamanders, and Arizona tiger salamanders).
- 9. Habitat Management Land Acquisition and Restoration:**
CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities.

This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall either purchase a total of 29.47 acres of Covered Species upland credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of 29.47 acres of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Compensatory habitat shall include upland foraging and dispersal habitat for Covered Species through preservation, restoration, enhancement, and/or creation of habitat that is the same or better quality as upland habitat that will be impacted. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations.

The Permittee shall also restore on-site 21.75 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.6 below. If any temporary impacts do not meet the criteria identified in Conditions of Approval 6.22 and 7.6, then CDFW shall require compensatory mitigation to offset the additional Project temporal impacts and an Amendment to this ITP may be required. If Permittee does not complete seeding of temporary impact areas by October 31 of the year of the impact, but restores impact areas within 2 years of the impact consistent with Conditions of Approval 6.23 and 7.6, then CDFW shall consider those disturbed areas as semi-permanent, and require compensatory mitigation at a 2:1 ratio (acres of mitigation: acres of impact). If Permittee does not restore areas considered temporarily-disturbed within 2 years, then CDFW shall consider those areas as permanent impacts, and require compensatory mitigation at a 3:1 ratio (acres of mitigation: acres of impact).

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

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$35,000/acre for 29.47 acres: **\$1,031,450.00**. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
- 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at **\$58,878.00**;
- 9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at **\$5,657.00**;
- 9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$12,256.00/acre for 29.47 acres: **\$361,191.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

- 9.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at **\$3,000.00**.
- 9.1.6. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.6, calculated at \$2,175.00/acre for 21.75 acres: **\$47,306.00**.
- 9.2. Covered Species Credits. Permittee shall purchase 29.47 acres of Covered Species upland credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below.
- OR:
- 9.3. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:
- 9.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);
- 9.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 9.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

- 9.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.
- 9.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 9.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, vegetation and invasive species management, annual protocol-level Covered Species surveys, and rangeland monitoring. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.
- 9.4. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

- 9.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;
- 9.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.
 - 9.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.
 - 9.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:
 - 9.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.
 - 9.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.

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

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

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

9.6. Habitat Restoration. Permittee shall restore on-site the 21.75 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 6 months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan (see Condition of Approval 6.20) to facilitate revegetation of the 21.75 acres of temporary construction disturbance on-site, and shall ensure that the plan is successfully implemented by the contractor.

10. Performance Security

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

10.1. Security Amount. The Security shall be in the amount of **\$1,507,482.00**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.

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

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

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

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

10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.

10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

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

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

Amendment:

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

Stop-Work Order:

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

Compliance with Other Laws:

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

Notices:

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

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2016-064-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

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

and a copy to:

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

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

Mayra Molina, Environmental Scientist
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Telephone (707) 428-2067

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, Santa Clara Valley Water District. (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Upper Llagas Creek Project Final Environmental Impact Report (SCH No 2012102032) prepared by Cardno Entrix and dated May 2014 that the Santa Clara Valley Water District adopted for the Upper Llagas Creek Project on June 10, 2014. At the time

Incidental Take Permit
No. 2081-2016-064-03
SANTA CLARA VALLEY WATER DISTRICT
UPPER LLAGAS CREEK PROJECT

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

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Upper Llagas Creek Project Final Environmental Impact Report, the results of the site visits on September 24, 2010; April 28, 2011; and November 27, 2015 and consultations on April 21, 2011; August 2, 2012; June 25, 2013; November 18, 2013; March 14, 2016; and June 27, 2016, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 29.47 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;

Incidental Take Permit
No. 2081-2016-064-03
SANTA CLARA VALLEY WATER DISTRICT
UPPER LLAGAS CREEK PROJECT

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

Attachments:

FIGURE 1	Project Location
FIGURE 2	Project Area Reaches 7A, 7B and 8
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2A, 2B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 8-3-18.


 Gregg Erickson, Regional Manager
 Bay Delta Region

ACKNOWLEDGMENT

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

By: 

Date: Oct. 12, 2018

Printed Name: Norma Camacho

Title: Chief Executive Officer

Incidental Take Permit
 No. 2081-2016-064-03
 SANTA CLARA VALLEY WATER DISTRICT
 UPPER LLAGAS CREEK PROJECT

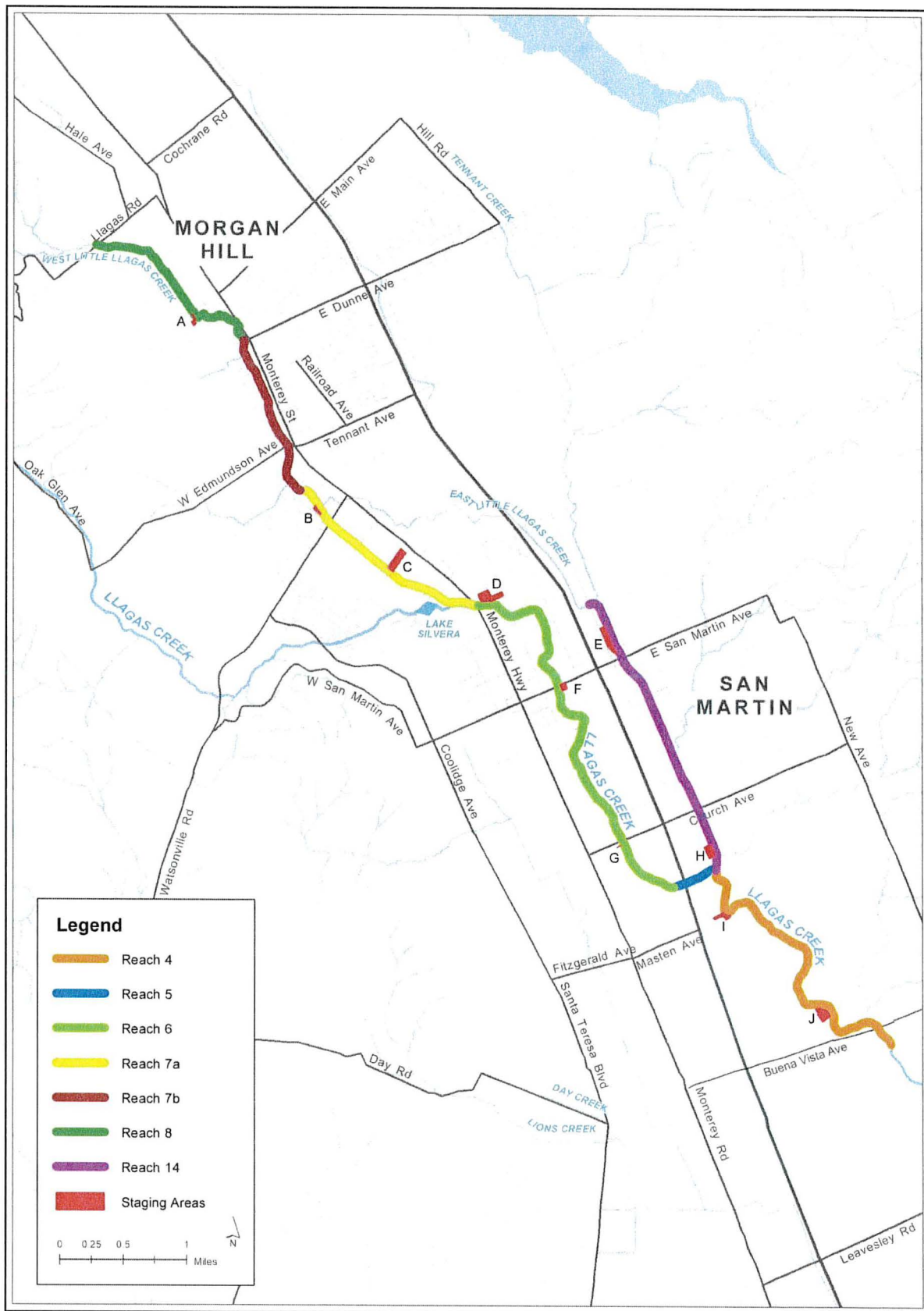
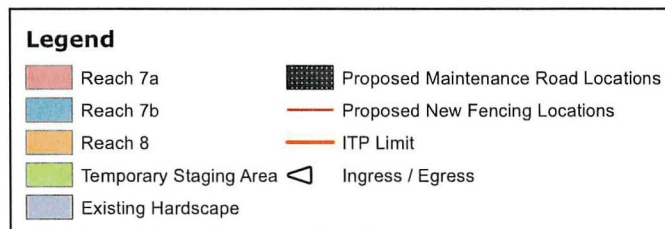
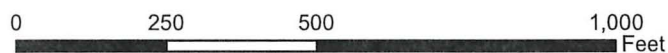
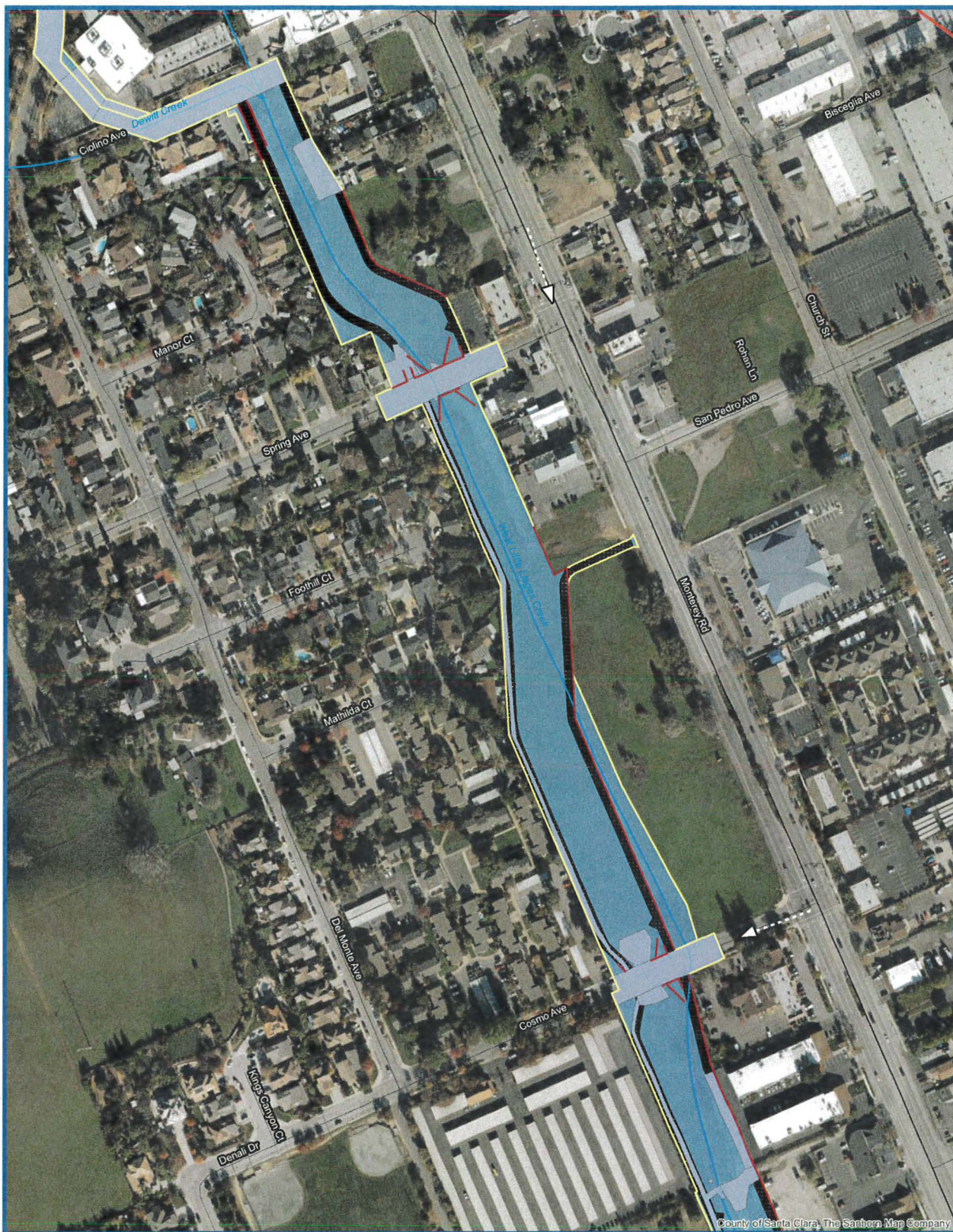


Figure 1 Upper Llagas Creek Project Area and Project Reaches



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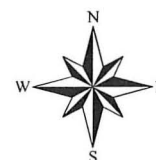
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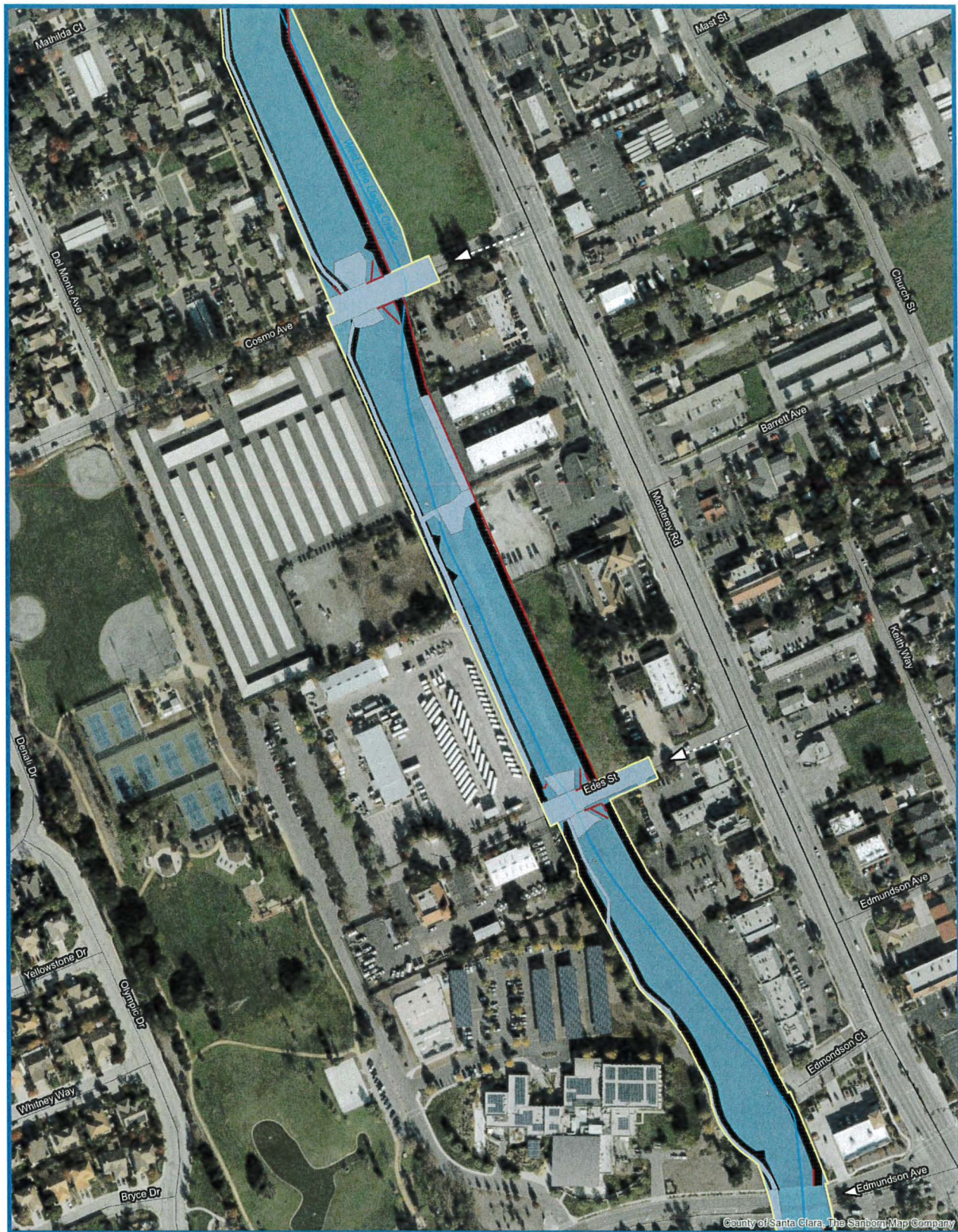
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| Reach 7a | Reach 7b | Reach 8 | Temporary Staging Area | Existing Hardscape | Proposed Maintenance Road Locations |
| | | | | | Proposed New Fencing Locations |
| | | | | | ITP Limit |
| | | | | | Ingress / Egress |

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0 250 500 1,000 Feet

Page 2 of 5





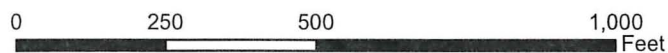
County of Santa Clara, The Sanborn Map Company



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| Reach 7a | Reach 7b | Reach 8 | Temporary Staging Area | Existing Hardscape | Proposed Maintenance Road Locations |
| | | | | | Proposed New Fencing Locations |
| | | | | | ITP Limit |
| | | | | Ingress / Egress | |

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County of Santa Clara, The Sanborn Map Company

Page 4 of 5



County of Santa Clara, The Sanborn Map Company

Legend

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|--|--|
| Reach 7a | Proposed Maintenance Road Locations |
| Reach 7b | Proposed New Fencing Locations |
| Reach 8 | ITP Limit |
| Temporary Staging Area | Ingress / Egress |
| Existing Hardscape | |

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0 250 500 1,000 Feet





County of Santa Clara, The Sanborn Map Company



County of Santa Clara, The Sanborn Map Company

Legend

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| Reach 7a | Reach 7b | Reach 8 | Temporary Staging Area | Existing Hardscape | Proposed Maintenance Road Locations |
| | | | | | Proposed New Fencing Locations |
| | | | | | ITP Limit |
| | | | | Ingress / Egress | |

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Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2016-064-03

PERMITTEE: Santa Clara Valley Water District

PROJECT: Upper Llagas Creek Project

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the California Department of Fish and Wildlife (CDFW) for the above-referenced Project are properly implemented, and thereby to ensure compliance with section 2081(b) of the Fish and Game Code and section 21081.6 of the Public Resources Code. A table summarizing the mitigation measures required by CDFW is attached. This table is a tool for use in monitoring and reporting on implementation of mitigation measures, but the descriptions in the table do not supersede the mitigation measures set forth in the California Incidental Take Permit (ITP) and in attachments to the ITP, and the omission of a 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	Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	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, and collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	On-Site 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 the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before their performing work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
4	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.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
5	Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. The construction schedule shall identify the approximate beginning and completion date of Project activities. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven (7) days prior to the changes being implemented.	ITP Condition # 6.18	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities in that area.	ITP Condition # 6.11	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 6.12	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
8	Additional Impacts to Habitat. No take beyond the semi-permanent loss of 3.86 acres of habitat for the Covered Species and temporary loss of 21.75 acres of habitat for the Covered Species authorized in the ITP shall occur unless the ITP is amended by CDFW prior to additional impacts.	ITP Condition # 6.13	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
9	Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Plastic water bottles and plastic bags shall be picked up and removed daily.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
10	Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
11	Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, state, or federal law enforcement officials.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
12	<p>Vegetation Restoration. Permittee shall prepare a Vegetation Restoration Plan (Restoration Plan) to restore Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions (see also Condition 9.6). Permittee shall submit the Restoration Plan to CDFW for approval within at least 15 days prior to the start of Project ground disturbing activities. The Restoration Plan shall include results of soil analysis, which will include ground-truthing soil conditions (e.g., type, texture, chemical composition and pH) by taking a soil sample and submitting the sample to an analytical lab. The Restoration Plan shall identify plant species damaged or removed during Project activities. The Restoration Plan shall include the following restoration standards:</p> <p>6.20.1 Reference Sites. Prior to initiating ground disturbance, Permittee shall establish a representative number of transects within disturbed areas ("treatment") which will each be associated with a reference ("control") site (i.e., site within intact natural habitat that will be used as a model for restoration activities). Each treatment-control transect set shall be appropriately placed and numbered for identification purposes. The slope, aspect, and hydrological conditions shall be similar for both the site to be restored and the reference site. To document existing plant communities, Permittee shall photograph the treatment and control sites during the spring (March to June) when most flowering plants are in bloom. Permittee shall also evaluate species composition at the reference site. Permittee shall use information collected at the reference site to guide restoration activities.</p> <p>6.20.2 Performance Standards. To be considered a successful restoration site, Permittee shall meet the following performance standards:</p> <ul style="list-style-type: none"> Gravel shall be removed from restored areas; Permittee may import and place up to three (3) feet of soil in compacted areas to increase the potential for vegetation establishment. Fill shall not be placed for purely aesthetic purposes, as fill has the potential to result in unnecessary and avoidable take of Covered Species. The upper one (1) foot of fill shall consist of topsoil; To the maximum extent feasible, topsoil shall be salvaged from within on-site work areas prior to construction. Imported fill soils shall be limited to weed-free topsoil similar in texture, chemical composition and pH to soils found at the reference site. At least two soil samples from each off-site fill source shall be submitted to a soil sampling lab for analysis. If Permittee chooses to import fill from an off-site location, CDFW and the property owner(s) shall be notified of the source of the fill at least 30 days in advance and shall be given the opportunity to inspect the fill and its source. If the fill source is deemed to be inappropriate (e.g., the type of soil is inappropriate or the soil would be sourced from a site with a major weed infestation), CDFW may require an alternative source of fill; Drivers might attempt to use adjacent shoulders for parking or to avoid ruts that form in roadways. Therefore, to protect restored habitat adjacent to permanent roads, permanent roads shall be kept in good repair, and barriers or fill shall be placed between the edge of the road and restored shoulders at the same grade to restrict vehicular access; 	ITP Condition # 6.20	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<ul style="list-style-type: none"> Minor re-contouring may be conducted; however, Permittee shall limit grading, compaction, fill, and all other earthmoving activities to the Project Area. Soils shall be protected from wind erosion using a biodegradable erosion control blanket or appropriate mulch cover (i.e. hydroseed or mulch) until vegetation is established. Seed shall be applied in the early fall, between October 15 and October 31. If feasible, seed shall be applied immediately prior to the first rain event; Permittee shall pre-designate each restoration area for establishment of a specific native vegetation community, based on slope, aspect, hydrological conditions, and if applicable, adjacent native vegetation. The seed mix for each restoration site shall be tailored to achieve the species composition of the pre-designated vegetation community. The distribution of vegetation communities within the restoration area shall be roughly proportionate to any native vegetation communities impacted. Following restoration, the species composition of each restoration site shall closely match that of the associated reference site; Seed mixes shall include only locally native species at a ratio appropriate to the site, with an emphasis on native bunchgrasses and other grassland species. Local native wildflower may also be included in the mix. Seed may be collected from within the Project Area. Additional seed shall be sourced from within 50 miles of the Project Area (i.e., original genetic material shall have been collected within this radius); however, the seed may be purchased from a seed farm outside of this area. For seeding and mulching exposed slopes, the seed blend may include one or two sterile non-native perennial grass species. Permittee shall complete seeding as soon as possible, but no later than October 31 of the year of the impact. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon. No more than 5 percent (%) of the vegetation in each restoration site shall consist of species designated as high or moderate invasive plants in the California Invasive Plant Council's (Cal-IPC) California Invasive Plant Inventory Database (http://www.cal-ipc.org/paf/). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner. 				
13	<p>Prevention of Spread of Invasives Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: http://www.cal-ipc.org/ip/prevention/index.php and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: http://www.protectyourwaters.net/.</p>	ITP Condition # 6.21	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the impact, and no additional ground disturbing activities shall occur; (2) if the impact area is within 1,000 feet of an aquatic feature, all work shall be completed within this area and exclusion fencing shall be removed by October 31 of the same calendar year, allowing the Covered Species unrestricted access between upland and aquatic habitat; and (3) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (see Condition of Approval 6.20).	ITP Condition # 6.22	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
15	Emergency Response Plan. Before the onset of work, Permittee shall prepare an Emergency Response Plan describing actions that will be taken in case of a fire or other natural disaster or in case of a human-generated disaster, such as a spill or release of hazardous materials. An emergency phone tree, including contact information for all appropriate disaster management agencies and natural resources agencies, shall be included in the plan and should be posted on-site in a visible location. The Emergency Response Plan shall specify containment procedures for hazardous substances, with emphasis on avoidance of the aquatic features at the Project site.	ITP Condition # 6.23	Before commencing ground- or vegetation-disturbing activities	Permittee	
16	Wildfire Prevention. If the Project site is within a high or very high Fire Hazard Severity Zone (refer to http://frap.fire.ca.gov/projects/hazard/fhz.html) or the risk of fire danger is high based on 7-day predictions from National Oceanic and Atmospheric Administration forecasts, Permittee shall mow access pathways, staging areas and work areas before allowing heavy equipment and vehicles to access the site. Non-living vegetative debris shall be cleared from around the immediate work footprint, and basic fire suppression supplies shall be kept on-site at all times. Disking and/or tilling are not permitted for fire prevention without prior written permission from CDFW.	ITP Condition # 6.24	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
17	<p>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.</p> <p>To meet this requirement, the Permittee shall either purchase a total of 29.47 acres of Covered Species upland credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of 29.47 acres of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Compensatory habitat shall include upland foraging and dispersal habitat for Covered Species through preservation, restoration, enhancement, and/or creation of habitat that is the same or better quality as upland habitat that will be impacted. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations.</p> <p>The Permittee shall also restore on-site 21.75 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.6 below. If any temporary impacts do not meet the criteria identified in Conditions of Approval 6.22 and 7.6, then CDFW shall require compensatory mitigation to offset the additional Project temporal impacts and an Amendment to this ITP may be required. If Permittee does not complete seeding of temporary impact areas by October 31 of the year of the impact, but restores impact areas within 2 years of the impact consistent with Conditions of Approval 6.23 and 7.6, then CDFW shall consider those disturbed areas as semi-permanent, and require compensatory mitigation at a 2:1 ratio (acres of mitigation: acres of impact). If Permittee does not restore areas considered temporarily-disturbed within 2 years, then CDFW shall consider those areas as permanent impacts, and require compensatory mitigation at a 3:1 ratio (acres of mitigation: acres of impact).</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
18	<p>Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:</p> <p>9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$35,000/acre for 29.47 acres: \$1,031,450.00. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;</p> <p>9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at \$58,878.00;</p> <p>9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at \$5,657.00;</p> <p>9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$12,256.00/acre for 29.47 acres: \$361,191.00. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.</p> <p>9.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at \$3,000.00.</p> <p>9.1.6. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.6, calculated at \$2,175.00/acre for 21.75 acres: \$47,306.00.</p>	ITP Condition # 9.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
19	<p>Covered Species Credits. Permittee shall purchase 29.47 acres of Covered Species upland credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below.</p> <p>OR:</p>	ITP Condition # 9.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
20	<p>Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:</p> <p>9.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);</p> <p>9.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;</p> <p>9.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;</p> <p>9.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.</p>	ITP Condition # 9.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>9.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see https://www.wildlife.ca.gov/Conservation/Planning/Banking); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;</p> <p>9.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, vegetation and invasive species management, annual protocol-level Covered Species surveys, and rangeland monitoring. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.</p>				

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
21	<p>Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p> <p>9.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;</p>	ITP Condition # 9.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>9.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.</p> <p>9.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.</p> <p>9.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <p>9.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</p> <p>9.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>9.4.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.</p> <p>9.4.3 Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p>				
22	Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Condition # 9.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
23	Habitat Restoration. Permittee shall restore on-site the 21.75 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 6 months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan (see Condition of Approval 6.20) to facilitate revegetation of the 21.75 acres of temporary construction disturbance on-site, and shall ensure that the plan is successfully implemented by the contractor.	ITP Condition # 9.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
24	The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
25	Security Amount. The Security shall be in the amount of \$1,507,482.00. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.	ITP Condition # 10.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
26	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.	ITP Conditions # 10.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
27	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.	ITP Conditions # 10.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
28	Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.	ITP Conditions # 10.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
29	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.	ITP Conditions # 10.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
30	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.	ITP Conditions # 10.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	<p>Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Conditions # 10.7	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
DURING CONSTRUCTION					
32	Seasonal Work Window. Permittee shall limit ground-disturbing Covered Activities involving construction and heavy equipment use (such as excavation, road construction, grading, trenching, and culvert installation) to the period between May 1 and October 15 until the expiration of this ITP.	ITO Condition # 8.1	Entire Project	Permittee	
33	Dry Season Work Restriction. During the Dry Season of May 1 to October 15 of each year until the expiration of this ITP, Permittee shall limit Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and contouring) to periods of low rainfall (less than 0.10 inches per 24-hour period). If rain exceeds 0.10 inches during a 24-hour period, work shall cease. Construction may resume 24 hours after the rain ceases when there is a less than a 40 percent chance of precipitation in the 24-hour forecast, and humidity, as measured locally on-site under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept on-site and subject to inspection.	ITP Condition # 8.2	Entire Project	Permittee	
34	Time of Day Work Restriction. Permittee shall terminate all Covered Activities 30 minutes before sunset and shall not resume Covered Activities until 30 minutes after sunrise with the exception of deliveries that cannot feasibly be made during the day due to size of delivery, traffic, or other constraints. Such deliveries shall include access within the Project Area via established roadways and unloading within existing graded areas. Any Project work outside of these hours must be approved by the CDFW Representative in writing. No earthmoving activities or overland travel shall take place during night-time work. All night-time work and construction-related traffic shall be suspended during rain events. Artificial lighting shall be limited in extent, duration, and brightness to the maximum extent feasible, be faced downward and only be utilized in the immediate workspace. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for determining when Covered Activities shall terminate and resume.	ITP Condition # 8.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
35	<p>Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of twice per week during periods of inactivity and after clearing, grubbing, and grading are completed.</p>	ITP Condition # 7.3	Entire Project	Permittee	
36	<p>Photo Monitoring. No less than 10 photo monitoring stations shall be established to provide representative views of Project, construction and restoration activities. Photo monitoring station results shall contribute to the assessment of temporary impacts and restoration work by CDFW; therefore Permittee should ensure that photo monitoring stations numbers and locations are sufficient to document temporary impacts and restoration success. Photo monitoring shall be done as follows:</p> <p>7.4.1. Stations should be located in areas that allow for unobstructed views and a field of vision of approximately 2,000 feet.</p> <p>7.4.2. At least one photograph shall be taken at all stations prior to ground-breaking activities, and each month thereafter until construction and initial restoration is complete. Photo documentation of restoration success shall occur every three months following initial restoration until restoration success criteria are reached.</p> <p>7.4.3. Photo monitoring station locations shall be provided to CDFW in a geographic format with the coordinate system identified.</p> <p>7.4.4. If CDFW or the Designated Biologist(s) determines that additional monitoring stations are necessary, the locations shall be added to the inventory of photo monitoring stations.</p> <p>7.4.5. During each photo monitoring cycle, all stations shall be visited within two days.</p>	ITP Condition # 7.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
37	Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall detail approximate Project impacts in acres, separated into semi-permanent and temporary impacts. The reports shall: (1) identify and describe the temporary and semi-permanent impacts to date; (2) describe the location, acres, and type of restoration actions that have occurred; and (3) include all monitoring information required by the Vegetation Restoration Plan described in Condition of Approval 6.21. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Mayra Molina (mayra.molina@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.5	Entire Project	Permittee	
38	CDFW Review of Monthly Report. If CDFW determines in writing that the take authorization for temporary impacts has been exceeded, Permittee shall cease all new construction activities until appropriate take authorization has been provided, if so directed in writing by CDFW. If CDFW determines in writing that take authorization for temporary impacts is likely to be exceeded in the coming month, Permittee shall revise the Project construction schedule (see Condition of Approval 6.18) in order to ensure temporary impacts meet the temporary impact criteria according to Condition of Approval 6.22. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.	ITP Condition # 7.6	Entire Project	Permittee	
39	Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.5; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and semi-permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species. ASRs shall be submitted to CDFW's Regional Office at the office listed in the Notices Section of this ITP and via e-mail to CDFW's Regional Representative Mayra Molina (mayra.molina@wildlife.ca.gov).	ITP Condition # 7.7	Entire Project	Permittee	
40	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.	ITP Condition # 7.8	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
41	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's Regional Representative Mayra Molina via email at mayra.molina@wildlife.ca.gov and via telephone at (707) 944-5596. 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.	ITP Condition # 7.10	Entire Project	Permittee	
42	Covered Species Mortality. If the Covered Species is found recently deceased, a ½- inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to CDFW Bay Delta Region, Attention Mayra Molina, 7329 Silverado Trail, Napa, CA 94558. The remaining carcasses shall be delivered to the CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road Suite D, Rancho Cordova, CA 95670 within 24 hours of the discovery.	ITP Condition # 7.11	Entire Project	Permittee	
43	Notification of Non-compliance. The Designated Representative and Designated Biologist shall immediately notify CDFW in writing if it determined that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative and Designated Biologist shall report any non-compliance with this ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	
44	Construction Monitoring Notebook. 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 the request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
45	Designated Biologist Authority. To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order reasonable measure to avoid the unauthorized take of an individual of the Covered Species. 6.3.1 Permittee shall accommodate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP due to a conflict with Project construction then the Designated Biologist shall notify the CDFW representative immediately.	ITP Condition # 6.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
46	Erosion Control. All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Permittee shall utilize erosion control measures throughout all phases of the Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a drainage, stream, or ponded area. No phase of the Project that may cause the introduction of sediments into a drainage, stream, or ponded area may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to the startup of any phase of the Project that may result in sediment runoff to a drainage, stream, or ponded area. The Designated Biologist shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately. Following completion of the Project, Permittee shall implement erosion control measures for all disturbed areas, which may include reseeding using a noxious weed-free locally native seed mix, hydroseeding, jute matting, or tackifying agents to stabilize soils, dust control, and prevent erosion.	ITP Condition # 6.8	Entire Project	Permittee	
47	Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as plastic or monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat. Tightly woven silt fencing material or woven organic materials such as coir logs (without monofilament netting) shall be permitted.	ITP Condition # 6.9	Entire Project	Permittee	
48	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. 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 # 6.14	Entire Project	Permittee	
49	Staging Area. 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. This shall not limit the Permittee's ability to use staging areas not containing Covered Species habitat in portions of the Project footprint located outside of the Project Area. Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.12 of this ITP.	ITP Condition # 6.15	Entire Project	Permittee	
50	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.	ITP Condition # 6.16	Entire Project	Permittee	
51	CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition # 6.17	Entire Project	Permittee	
52	Vehicle Speed Limit. Permittee, Designated Biologist(s) and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 20 miles per hour when traveling through the Project Area.	ITP Condition # 8.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
53	Inspection of Refuge Habitat. All potential refuge features (e.g. debris piles), created as a result of the Project shall be inspected by the Designated Biologist for the Covered Species prior to removal. The Designated Biologist shall inspect the debris piles for the Covered Species as the debris is being loaded to trucks.	ITP Condition # 8.5	Entire Project	Permittee	
54	Temporary Covered Species Barrier. Prior to beginning Covered Activities, Permittee shall install a temporary barrier along the limits of temporary vehicle staging areas, initial grading areas and other disturbance areas to prevent the Covered Species from dispersing into the Project Area. The barrier shall be designed to prevent Covered Species from entering the work area, while allowing trapped individuals to leave the work area, and shall remain in place until all construction activities have been completed. The barrier shall consist of fencing at least three feet tall and buried to a depth of a minimum of four inches below the soil surface. Barrier support stakes shall be restricted to the side of the work area (no stakes on the side opposite of the work area) to prevent the possibility of Covered Species using the posts to climb over the fence. Holes or burrows, which appear to extend under the barrier, shall be blocked to minimize Covered Species movement under the barrier. The Designated Biologist (or other trained staff during periods when no covered Activities occur) shall inspect the barrier daily, and before, during and after storm events. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Permittee shall provide refuge opportunities, such as cover boards (3-foot x 3-foot plywood), along the silt fencing on both sides of the barrier. The Designated Biologist shall inspect refuge areas each morning during and after rain events. Animals found within the interior fence shall be relocated outside the fence line no more than 300 feet from the Project boundary. Covered Species found shall be relocated by the Designated Biologist per the Relocation Plan described in Condition of Approval 8.11.	ITP Condition # 8.6	Entire Project	Permittee	
55	<p>Trench Escape and Inspection. The Designated Biologists and trained construction foreman/manager, supervised by the Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning of each day for trapped animals. To prevent inadvertent entrapment of Covered Species, the Designated Biologist(s) shall oversee the covering of all trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that Covered Species are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. Each morning prior to beginning Covered Activities and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) and/or construction foreman/manager shall thoroughly inspect them for Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately if any worker discovers that Covered Species have become trapped. If at any time a trapped Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per the Relocation Plan described in Condition of Approval 8.11.</p> <p>8.7.1. If the open holes, sumps, trenches or excavations cannot be covered then a temporary barrier shall be installed around any trenches, holes, sumps, or other excavations to prevent Covered Species from becoming trapped.</p>	ITP Condition # 8.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
56	Inspection of Pipes and Culverts. All construction pipes, culverts, or similar structures that are stored at the Project site for one or more overnight periods shall be securely capped prior to storage or inspected by the Designated Biologist before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a Covered Species is discovered inside a pipe by the Designated Biologist or anyone else, the Covered Species shall be allowed to leave its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area and in accordance with the Condition of Approval 8.11.	ITP Condition # 8.8	Entire Project	Permittee	
57	Vehicle and Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Permittee shall contact the Designated Biologist to determine if the Designated Biologist can safely move the Covered Species in Accordance with Condition of Approval 8.11 below.	ITP Condition # 8.9	Entire Project	Permittee	
58	Prohibited Plant Species. Permittee shall not plant, seed or otherwise introduce invasive exotic plant species. Prohibited exotic plant species include those identified in the California Exotic Pest Plant Council's database, which is accessible at: http://www.cal-ipc.org/paf/ .	ITP Condition # 8.10	Entire Project	Permittee	
59	Covered Species Relocation Plan. Permittee shall develop a Relocation Plan for Covered Species and submit it to CDFW for approval prior to ground-disturbing activities occurring within 1.3 miles of known Covered Species breeding pools or in suitable upland habitat. Permittee shall quantify the amount, relative location, and quality of suitable habitat (e.g., breeding, upland, and dispersal habitat) including invasive and non-native species present, available upland burrows, and potential barriers for movement. The Designated Biologist shall relocate any Covered Species individuals within the Project Area impacted by Covered Activities to an active rodent burrow system or appropriate breeding pond located no more than 250 feet outside of the work area and described in the Relocation Plan, unless otherwise approved in advance by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 8.17). The Designated Biologist shall contact CDFW's Regional Representative within one working day of any relocation incidents. Incidents that do not result in mortality shall be reported in the monthly and final compliance report. At a minimum, the report of the incident shall include the time, location, and circumstances that led to the Covered Species being discovered and confined; the location where the Covered Species was relocated; and photographs of the animal including the ventral and lateral as well as the dorsal surfaces. All locations shall be geo-referenced and detailed in text.	ITP Condition # 8.11	Entire Project	Permittee	
60	Decontamination of Clothing and Equipment. Any equipment that enters the water during construction shall be decontaminated before and after construction using USFWS guidance to prevent the spread of aquatic diseases and invasive aquatic species. All equipment parts that may come into contact with the water, such as vehicle treads, buckets, etc., shall be decontaminated. Repeat decontamination is required only if the equipment is removed from the site, used within a different aquatic feature, and returned to the Project Area. Decontamination shall take place in an upland location, and any chemicals used during decontamination shall be prevented from entering aquatic features. Workers shall also decontaminate waders, boots, and other clothing that comes in direct contact with the water.	ITP Condition # 8.12	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
61	Pre-Construction Surveys. Prior to initiating Covered Activities, the Designated Biologist shall perform pre-construction surveys within the boundaries of the Project Area plus a 50-foot buffer zone around the construction area. The Designated Biologist(s) shall complete walking surveys of the Project Area prior to any ground-disturbing activity (such as soils deposition areas, road construction or improvement sites, or fence installation/repair sites), and shall follow earthmoving equipment to look for Covered Species during initial site grading. Grading activities shall be done in a manner that allows Designated Biologists to safely survey the area for Covered Species. A Designated Biologist shall survey the open areas adjacent to ongoing grading or scraping as the footprint expands. Multiple biologists may be necessary to survey the area appropriately. The Designated Biologist shall survey suitable habitat features, such as aquatic and upland areas and beneath woody debris, for Covered Species. The Designated Biologist shall conduct pre-construction surveys in conjunction with exclusion fencing installation (see Condition 8.6). If the Designated Biologist(s) or anyone else discovers Covered Species, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition of Approval 8.11).	ITP Condition # 8.13	Entire Project	Permittee	
62	Delineation of Burrow Complexes. The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Condition 8.13) and within 100 feet of the Project footprint with posted signs, posting stakes, flags, and/or rope or cord. Signs, stakes, flags, and/or rope shall be clearly distinguishable from markings used to delineate work areas.	ITP Condition # 8.14	Entire Project	Permittee	
63	Pre-Construction Burrow Identification. The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of new roads, electrical collection lines, or turbine pads with flagging no-less-than five days prior to earthmoving activities in those areas. All burrows shall be avoided to the maximum extent practicable during earthmoving activities.	ITP Condition # 8.15	Entire Project	Permittee	
64	Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a suspected non-native barred tiger salamander (<i>Ambystoma tigrinum mavortium</i>) or California tiger salamander/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 8.17).	ITP Condition # 8.16	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
65	<p>Covered Species Handling and Injury. If an injured Covered Species is found during the Project term, the Designated Biologist shall evaluate the individual and immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the Designated Biologist shall place the injured individual in a safe and shaded location. Any injured Covered Species shall be placed in a shaded container and kept moist, and shall be handled and assessed according to the Restraint and Handling of Live Amphibians, USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001; http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp). If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken:</p> <p>8.17.1. If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately (see Condition of Approval 8.11);</p> <p>8.17.2. If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum or another CDFW-approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and USFWS. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.10.</p>	ITP Condition # 8.17	Entire Project	Permittee	
66	Soil Stockpiles. Permittee shall place soil stockpiles where soil will not pass into potential Covered Species breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 et seq. Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.	ITP Condition # 8.18	Entire Project	Permittee	
67	Covered Species Checks. Before the start of work each morning, the Designated Biologist shall check for Covered Species individuals under all vehicles, equipment, materials, or otherwise suitable locations for salamanders to hide. Workers shall inspect under vehicles and equipment for Covered Species before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist. The Designated Biologist shall follow initial grading equipment to look for Covered Species. All ruts and holes near root structures, foundations, abutments, etc., shall be inspected for Covered Species prior to and during excavation or removal. If a Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the individual as required by Condition of Approval 8.11.	ITP Condition # 8.19	Entire Project	Permittee	
68	Invasive Species. Any bullfrogs (<i>Lithobates catesbeianus</i>) encountered during construction or monitoring shall be permanently removed from the wild. Pursuant to Fish and Game Code, section 6854, it is unlawful to take bullfrogs using firearms of any caliber or type. BB or pellet guns are prohibited. CDFW may issue a permit to take and dispose of frogs under such limitations as the Commission may prescribe (Fish and Game Code, § 6854). Permittee may not introduce predatory fishes (including but not limited to largemouth bass, redear sunfish, bluegill, catfish, mosquitofish, and fathead minnows) or amphibians (including but not limited to bullfrogs, barred tiger salamanders, and Arizona tiger salamanders).	ITP Condition # 8.20	Entire Project	Permittee	
POST-CONSTRUCTION					

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
69	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.	ITP Condition # 6.19	Post-construction	Permittee	
70	Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 7.9	Post-construction and after completion of mitigation	Permittee	

ATTACHMENT 2A
DEPARTMENT OF FISH AND WILDLIFE
HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS

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

To: _____
Regional Manager, Region Name

From: _____
Project Applicant

Phone: _____

Tracking #: _____
CDFW assigned permit or agreement #

Project Name: _____

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

Documents in this package include:

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

☐ Proposed Lands for Acquisition Form (PLFAF)

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

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

Included are additional documents:

☐ document(s) to support title exceptions

☐ document(s) to explain title encumbrances

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

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

☐ County Assessor Parcel Map(s) for subject property

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

☐ Final Permit or Agreement (or other appropriate instrument)

Type of agreement: ☐ Bank Agreement ☐ Mitigation Agreement

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

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

☐ Biological Resources Report

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



ATTACHMENT 2B

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

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

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

<u>Section(s)</u>	<u>Township</u>	<u>Range</u>	<u>County</u>	<u>Acres</u>
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_____	_____	_____	_____	_____
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Current Legal Owner(s), of the surface and mineral estates, include Assessor's Parcel Number(s):

General Description of Location of Parcel(s):

Land Value: \$

For Region Use Only

APPROVED ____ By: _____ DATE: _____
Regional Manager's SignatureREJECTED ____
Region: _____Explanation: _____

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

Issue Date: **[date]**

Beneficiary:

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

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

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

Dear Sirs:

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

8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give the CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, the CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to the CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of the CDFW, as defined in paragraph 12 below.
12. An "Authorized Representative" shall mean either the Director of the California Department of Fish and Wildlife, the General Counsel of the California Department of Fish and Wildlife, or a Regional Manager of the California Department of Fish and Wildlife.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify the CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at **[name and address of financial institution]**, specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for the CDFW: California Department of Fish and Wildlife, Habitat Conservation Planning Branch, 1416 Ninth Street, 12th Floor, Sacramento, California 95814-2090 Attn: HCPB Mitigation Account Coordinator; and (ii) for the Applicant: **[name and address of applicant]**.
15. This Credit may not be transferred.
16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the Uniform Commercial Code, Article 5 of the State of California.
17. This Credit shall, if not canceled, expire on **[expiration date]**, or any extended expiration date.

18. We hereby agree with the CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.

19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[Name of financial institution]

By: _____

Name: _____

Title: _____

ATTACHMENT A

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

To:

[Name and address of financial institution]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

ATTACHMENT B

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

To:

[Name of financial institution and address]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

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

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

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

4. AGREEMENT/ACCOUNT INFORMATION: (check the applicable type) <input type="checkbox"/> 2081 Permit <input type="checkbox"/> Conservation Bank <input type="checkbox"/> 2835 NCCP <input type="checkbox"/> 1802 Agreement <input type="checkbox"/> 1600 Agreement <input type="checkbox"/> Other _____ _____ Project Tracking Number

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

Check information:

Total \$ _____ Check No. _____
Account No. _____ Bank Routing No. _____

- | | |
|--|-------------------|
| a. Endowment: for Long-Term Management | Subtotal \$ _____ |
| b. Habitat Enhancement | Subtotal \$ _____ |
| c. Security: | |
| 1. Cash Refundable Security Deposit | Subtotal \$ _____ |
| 2. Letter of Credit | Subtotal \$ _____ |
| 1. Financial Institution: _____ | |
| 2. Letter of Credit Number: _____ | |
| 3. Date of Expiration: _____ | |

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