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

California Endangered Species Act
Incidental Take Permit No. 2081-2018-067-04

EASTSIDE BYPASS IMPROVEMENTS PROJECT

Authority: This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the 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: California Department of Water Resources
Contact Person: Karen Dulik, Environmental Program Manager
(559) 230-3361
Mailing Address: 3374 E. Shields Avenue
Fresno, California 93726

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 31, 2025**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 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 Eastside Bypass Improvements Project (Project) is located between the cities of Merced and Los Banos in Merced County in the Eastside Bypass, just east of the San Joaquin River (Figure 1). The proposed Project area includes the Eastside Bypass between the Sand Slough Control Structure and the Mariposa Bypass and is located within the United States Geological Survey (USGS) 7.5-minute Turner Ranch, Sandy Mush, and Santa Rita Bridge quadrangles.

The proposed Project is part of the Lower San Joaquin River Flood Control Project that provides flood control for the region and is operated and maintained by the Lower San Joaquin Levee District (LSJLD). The properties within the proposed Project area are owned by various private owners and the United States Fish and Wildlife Service (USFWS) Merced National Wildlife Refuge (NWR).

Project Description:

The proposed Project consists of modification of Eastside Bypass Levees (Reaches O-1, O-3, and O-4) to reinforce approximately 2 miles of existing levee along the Eastside Bypass between Sand Slough and the Mariposa Bypass over 41.4 acres and the Eastside Bypass Control Structure to improve fish passage and construct a rock ramp downstream that would provide a fishway entrance over 6.2 acres.

The proposed Project also includes staging/stockpiling areas, borrow sites, and temporary access routes within the above-referenced Project sites (Figure 2). Access would be via State Route (SR) 99, 152, and 59, and County roads. Travel between sites would be restricted to these routes; therefore, no construction of new permanent access routes would be required. Off-road Project-related construction traffic outside of the designated work areas will be prohibited.

Levee Repairs

Levee improvements would include reinforcing approximately 1,500 linear feet of levee in Reach O-1, 5,900 linear feet of levee in Reach O-3, and 2,600 linear feet of levee in Reach O-4 with cutoff walls. Cutoff walls would be installed to depths sufficient to minimize seepage through the levee and/or beneath it to meet or exceed United States Army Corps of Engineers (USACE) levee design criteria. For cutoff walls designed to block through-seepage, the intent is to construct a wall deep enough to block flow through the levee and alter the flowpath of seepage to reduce landside impacts. Cutoff walls for under-seepage are generally installed to depths that would tie into existing lower permeability soil layers in the levee foundation below the permeable material. The depths for cutoff walls necessary to limit under-seepage and through-seepage at the design water surface elevation to gradients specified by USACE, are determined by geotechnical modeling and analyses.

For the proposed levee improvements, two methods are being considered and will ultimately be determined by the contractor: the Open Trench Method and the One Pass Trench Method. Both methods require the top of the existing levee to be degraded from 2 feet to 6 feet depending on the height of the levees and method. About 25,100 cubic yards of excavation soil from the existing levees will be used to temporarily widen the levee within the inside toe of the levee.

A trench approximately 35 feet deep and 2 to 3 feet wide would be cut down the center of the levee resulting in about 18,504 cubic yards of material to be temporarily placed adjacent to the levee or stored at the borrow site. A bentonite cutoff wall would be placed in the middle of the levee crown for improved stability. The Open Trench Method would require temporary ponds to mix the slurry.

Once the slurry wall has been completed, the top portion of the existing levee would be reconstructed using the existing levee material that was removed from the levee. Additional select material from the borrow site may be required if materials from the existing levees are not suitable. The improvement would allow conveyance of up to 2,500 cubic feet per second (cfs) of Restoration Flows.

In addition to the slurry wall installation, there are a total of six culverts/pipes that penetrate the levees that will be replaced. The types of replacement are identified in the figures for each type of levee penetration

Rock Ramp Project Area

To provide fish passage, the Eastside Bypass Control Structure would be modified by removing the sill, boards, and energy dissipation blocks. In addition, an approximate 380-foot-long rock ramp would be constructed downstream of the structure to provide easy passage from the downstream pool to the structure. The ramp would extend from bank to bank. It would be constructed by filling the large pool downstream of the structure with approximately 13,000 cubic yards of compacted fill, up to subgrade elevation, and then adding a 2.5- to 3.5-foot-thick top layer of approximately 11,500 tons of Engineer Streambed Material (ESM) comprised of rock mixes with particle sizes ranging from boulders to sand and silt.

The slope of the rock ramp would be about 1 percent. To stabilize the ramp, approximately 30-foot-long sheet piles would be driven approximately 20 feet into the existing ground, so the top of the sheet pile matches the final grade elevation of the ramp. The piles would then be backfilled with ESM. The ramp would be constructed of rock mixes with two different gradations.

The ramp would be constructed of rock mixes with two different gradations. The upper 50 feet features a larger rock mix to help protect the ramp from potential high velocities if the gates

are operated on the structure to divert flows into the Mariposa Bypass during flood flows, or to allow for maintenance downstream of the structure. Gradation of the ESM for the upper portion may feature a boulder weir, set slightly higher than the invert of the control structure. All boulders are approximately 3 feet in diameter. If necessary, the upper 50 feet of the ramp between the end of the existing structure and boulder weir may include larger rock, and/or be grouted to prevent erosion from high velocities, with the top upper most layer of material that would not be grouted to mimic a more natural channel. If determined necessary, an additional sheet pile wall just downstream of the structure would be installed and embedded approximately 20 feet in depth. The sheet piles, in addition to the grouting, will protect the control structure from being undermined because of erosion. The remaining part of the ramp has a gradation featuring slightly smaller size boulders down to silt and sand.

The ramp will also feature a 1-foot deep low-flow channel that has a 10-foot bottom width and 2:1 side slopes, making its top width 14 feet. Hydraulic modeling determined that the low-flow channel has a depth of 1 foot of water depth at a flow of less than 45 cfs to meet the minimum flow depth criterion for fish passage. The water surface profiles at 8,000 cfs for the existing and design conditions, as well as a profile of the ramp and sheet pile wall.

Additionally, there is currently a stream gage site dedicated to collecting stream flow data approximately 550 feet downstream of the Eastside Bypass Control Structure. To make sure the gage is outside of the influence of the new rock ramp and can accurately measure stage, the gage would be replaced and relocated up to 1,000 feet downstream of the rock ramp. The stream gage consists of a gage house and still well that is embedded 20 feet into the upland area of the Bypass. It also consists of a metal grated walkway, approximately 30 feet in length, concrete footings, and approximately 200 feet of conduit pipe line from the gage to the low flow channel. The line can be buried or secured by concrete anchors. Up to three staff gages will also be installed near the location of the stream gage.

Construction Equipment

Equipment to be used for this Project include excavators, long reach excavators, dozers, front-end loaders, transfer trucks, graders, water trucks, sheepsfoot rollers, smooth drum rollers, compressors, generators, saws, heavy and light duty trucks, roller compactors, dewatering and water jetting pumps, and cranes.

Water Diversion

If work in the flowing portion of the channel is unavoidable, the entire flow shall be diverted around or through the work area during the excavation and or construction operations. Channel flow shall be diverted using gravity flow through a temporary secondary channel, sheet pile cofferdam, or pumped around the work site with the use of hoses. Sufficient water shall be always be allowed to pass downstream to maintain aquatic life. Any temporary dam

or other artificial obstruction constructed shall only be built from clean material, free from fine sediments.

In-channel work is scheduled to begin around the months of May or June, when flows would be approximately 25 to 100 cfs. Construction activities in the channel will take place approximately 5 months of this time. Channel diversions shall be removed once construction is complete and respective areas returned to their original pre-project conditions where feasible. In-channel work will not extend past the November 15 deadline.

A detailed dewatering plan will be developed and implemented based on site-specific conditions and in consultation with the Central Valley Regional Water Quality Board and CDFW, prior to any dewatering activities.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ³
2. Swainson's hawk (<i>Buteo swainsonii</i>)	Threatened ⁴

These species and only these species are the "Covered Species" for the purposes of this ITP.

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include all construction activities associated with modification of the Eastside Bypass Levees and Eastside Bypass Control Structure involving ingress and egress of the Project area, clearing and grubbing, grading, staging, dewatering and pumping, excavation, use of pile driver and crane, and placement fill, rock material, grouting, installation of exclusion fencing, grading temporary access, degrading levee, trenching, stockpiling, and installation of slurry (Covered Activities).

Swainson's Hawk (SWHA)

Covered Activities may result in incidental take of individuals in the form of mortality ("kill") as a result of: vehicle strikes due to increased Project-related traffic and as a result of the loss of eggs, young, or fledglings due to destruction of nests or abandonment of nests during grubbing, grading, and other construction activities occurring in close proximity to nests during the SWHA nesting season. Incidental take of SWHA individuals may also occur from

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

⁴See *Id.*, subd. (b)(5)(A).

Covered Activities in the form of pursue, catch, and capture when eggs or individuals are salvaged after parental nest abandonment has occurred. The chance of viability of eggs and/or survival for SWHA in this circumstance is greatly reduced. Direct impacts to foraging habitat could also affect migrating individuals, and the fitness of SWHA young raised in close proximity to the Project due to reduced or disrupted foraging opportunities that reduce the ability of parents to acquire food for their dependent young.

Potential indirect impacts to SWHA and their habitat include effects of ground-disturbing activities associated with implementation of Covered Activities. These include construction-related noise, ground vibration, fugitive dust, visual disturbance, introduction or spread of invasive species, and increased human activity which could result in a reduction in prey abundance and/or availability. Noise and vibration could cause physiological and/or behavioral disruptions that may interfere with breeding, result in nest abandonment, and a loss of fitness in dependent young resulting from interruptions to brooding and/or feeding schedules, due to impaired or interrupted foraging opportunities and because forage acquired further away from the nest is more energetically expensive for parents acquiring food for their dependent young. Operations and maintenance of the Project could indirectly affect nesting SWHA through noise and increased human activity.

California Tiger Salamander (CTS)

Covered Activities may result in incidental take of individuals in the form of mortality ("kill") as a result of: equipment strikes during ingress and egress and hauling of materials, collapse or excavation of occupied burrows that results in crushing or suffocation of underground individuals during grading and compaction, entombment of individuals from deposition of stockpiled material or spoils over occupied burrows and during top soil, or soil compaction, grading activities, the capture or entrapment in holes or trenches, excavation of burrow systems, entrapment within barrier fencing constructed around the Project area. Incidental take of CTS may also occur from the Covered Activities in the form of pursuit, catch, capture, or attempt to do so during capture and relocation of CTS out of harm's way as required by this ITP.

Potential indirect impacts to CTS and their habitat include effects of ground-disturbing activities associated with implementation of Covered Activities. These impacts include: stress resulting from noise and vibrations from earthwork, equipment operation, and traffic; temporary displacement; increased vulnerability to predation, exposure, or stress through disorientation; and loss of burrowing habitat used for shelter and escape cover. Individuals displaced due to habitat loss and degradation may be unable to survive in adjacent areas if these areas are at carrying capacity or are unsuitable for colonization.

The Project is expected to cause the permanent loss of 0.16 acres of habitat for both Covered Species, and the temporary loss of 34.86 acres of habitat for both Covered Species. The area where authorized take of the Covered Species is expected to occur is the entire

approximate 47.7-acre disturbance area, which includes permanent and temporary impacts to agriculture lands (grazing), managed wetland, non-native annual grassland (upland), non-native annual grassland (floodplain), and perennial grassland that provide habitat features for Covered Species totaling approximately 35.02 acres (collectively, the Project Area). The remainder of the Project site includes disturbed areas or habitat types that Covered Species may incidentally occupy for short periods during dispersal but are not generally considered Covered Species habitat.

Incidental Take Authorization of Covered Species:

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

Conditions of Approval:

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration and Initial Study (SCH No.: 2017121026) adopted by California Department of Water Resources on May 1, 2018, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. 1600-2018-0107-R4 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 for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
6. **General Provisions:**
 - 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 6.2. Designated Biologist. 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 and in writing if the Designated Biologist must be changed. The Designated Biologist(s) may be assisted by approved individuals identified as Designated Monitors that may not meet the qualifications to be a Designated Biologist. Designated Monitors and their activities shall be approved in advance and in writing by CDFW.
 - 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.

- 6.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project 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.
- 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 Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as

monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.

- 6.9. Delineation of Property Boundaries. Before starting Covered Activities within the Project Area, 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.
- 6.10. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.11. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.12. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.
- 6.13. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.

- 6.14. 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.
- 6.15. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all fill material 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.

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 shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 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 [frequency of compliance inspections during periods of inactivity and after clearing, grubbing, and grading are completed.
- 7.4. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly 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. Quarterly Compliance Reports shall be submitted no later than the 5th day of the month the Report is due to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative, the Region's CESA Program, and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Jim Vang (Jim.Vang@wildlife.ca.gov), the Regional Office CESA Program email is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

- 7.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) all accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 7.6. CTS Mortality Reduction and Relocation Plan. The Designated Biologist(s) shall prepare a CTS Mortality Reduction and Relocation Plan. It shall include, but not be limited to, a description (with maps) of the suitable breeding and upland habitat at and near the Project Area; the portion of the Project Area which represents suitable upland habitat for the Covered Species; a discussion of the survey, excavation, capture, handling, and relocation methods; description of what burrows will be excavated; identification of where the individuals will be relocated to; and identification of a wildlife rehabilitation center or veterinary facility. The Covered Species Mortality Reduction and Relocation Plan will be submitted to CDFW for approval prior to the beginning of the Covered Activities. Covered Activities within the delineated habitat portion (Condition of Approval 6.10) of the Project Area shall not proceed until the CTS Mortality Reduction

and Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.

- 7.7. SWHA Nest Abandonment Contingency Plan. The Designated Biologist shall submit a Nest Abandonment Contingency Plan to CDFW for written approval prior to the start of Covered Activities. The plan shall include, but not be limited to, identification of capture methods, handling methods, methods to return SWHA back into the wild, and the identification of a CDFW-approved wildlife rehabilitation center or veterinary facility. The Permittee shall fund the recovery and hacking (controlled release) of the SWHA nestlings.
- 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 Quarterly 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 Quarterly 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 by calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and, if possible, provide a

photograph, explanation as to cause of take or injury, and any other pertinent information.

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. Designated Biologist On-site. The Designated Biologist shall be on-site during all ground-disturbing or vegetation-disturbing activities that may result in the take of Covered Species.
- 8.2. Delineation of Ingress and Egress Routes. Permittee shall flag all access roads in the field from the paved road and vehicle operation shall be limited to these designated ingress and egress routes.
- 8.3. CTS Pre-Activity Clearance Surveys. The Designated Biologist(s) shall perform Pre-Activity Clearance Surveys for CTS within the Project Area no more than 14 days prior to starting Covered Activities. These surveys shall provide 100 percent visual coverage of the Project Area and a 50-foot buffer zone. If any life stages (adults, eggs, or larvae) of CTS are found, the Designated Biologist(s) shall capture and relocate the CTS as per the CDFW-approved CTS Mortality Reduction and Relocation Plan described in Condition of Approval 7.6. The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities.
- 8.4. Flag Burrows. The Designated Biologist(s) shall flag all potential small mammal burrows identified within the Project Area during the Pre-Activity Clearance Survey (Condition of Approval 8.3) to alert work crews to their presence.
- 8.5. Small Mammal Burrow Surveys and Excavation. Small mammal burrows identified during CTS Pre-Activity Clearance Surveys (Condition of Approval 8.3) which cannot be fully avoided by at least 50 feet should be flagged per Condition of Approval 8.4. Small mammal burrows shall be fully excavated by the Designated Biologist(s) based on the approved CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.6. The Designated Biologist(s) shall relocate any live CTS discovered during burrow excavation in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.6 above. Excavation shall occur no more than 14 days after the completion of the Pre-Activity Clearance Surveys as described in Condition of Approval 8.3 above.

- 8.6. CTS Exclusion Fencing. After the clearance survey and CTS relocation efforts (Conditions of Approval 8.3, 8.4, and 8.5) are complete, Permittee shall install temporary exclusion fencing around the perimeter of the Project Area to prevent CTS from migrating into the Project Area. The Permittee shall submit the type of fencing material and design for CDFW written approval before exclusion fencing installation. The exclusion fence shall be buried a minimum of four inches below ground surface and shall be equipped with one-way exits to avoid entrapment of CTS and other amphibians or reptiles. The Permittee shall also avoid small mammal burrows by a minimum of 50 feet during the installation of the exclusion fencing or as approved in the CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.6.
- 8.7. Exclusion Fencing Installation. The Designated Biologist(s) shall accompany the exclusion fence construction crew to ensure that CTS are not killed or injured during fence installation. The exclusion fencing shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the Covered Activities. The Designated Biologist(s) shall check the exclusion fence at least once weekly and inform Permittee of necessary maintenance or repairs. Exclusion fence shall be removed immediately upon completion of Covered Activities.
- 8.8. Fieldwork Code of Practice. To ensure that the Designated Biologist(s) does not convey disease between the Project Area and areas outside the Project Area, the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) shall be followed at all times. The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. The Designated Biologist(s) will ensure that all traces of the disinfectant are removed before entering the next aquatic habitat.
- 8.9. CTS Observations. All workers shall inform the Designated Biologist(s) if a CTS is seen within or near the Project Area. All work in the vicinity of the CTS, which could injure or kill the animal, shall cease immediately until the CTS moves from the Project Area of its own accord or is relocated by the Designated Biologist(s) in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan specified in Condition of Approval 7.6 above.
- 8.10. Open Excavation Inspection. The Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped CTS. To prevent inadvertent entrapment of CTS, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a

non-slip material with a less than 1:1 (45 degree) slope. The Designated Biologist(s) shall thoroughly inspect all trenches, holes, sumps, and other excavations for CTS (or other wildlife) before they are back-filled. If any worker discovers that CTS have become trapped, Permittee shall cease all Project-related activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall provide the opportunity for the CTS to escape unimpeded out of the Project Area before allowing work to continue. Alternatively, if the CTS will not leave the Project Area unimpeded, the Designated Biologist(s) shall capture and relocate the CTS as per the CDFW-approved CTS Mortality Reduction and Relocation Plan described in Condition of Approval 7.6, after receiving approval from the CDFW Regional Representative. If, at any time, a CTS is found incidentally trapped in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of the incident.

- 8.11. Rain Forecast. The Designated Biologist(s) and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area if Covered Activities within CTS habitat are scheduled to occur from October 15 through January 15. If a 70 percent or greater chance of rainfall is predicted within 24 hours of Project activity, the Designated Biologist(s) shall survey the Project Area before Covered Activities begin each day rain is forecast in order to capture and relocate CTS that are discovered during the surveys. If precipitation begins during Covered Activities, the Designated Biologist(s) shall remain at the Project Area for the duration of the rain event in order for Covered Activities to continue. If rain exceeds ½ inch during a 24-hour period, all Covered Activities shall cease until it is no longer raining, and no further rain is forecast. Covered Activities may continue in the Project Area under these conditions if the exclusion fence has been installed as required by Conditions of Approval 8.6 and 8.7.
- 8.12. Equipment Inspection. Workers shall inspect for CTS under vehicles and equipment before the vehicles and equipment are moved. If a CTS is discovered during inspection, the worker shall notify the Designated Biologist(s) and wait for the CTS to move unimpeded out of the Project Area. Alternatively, if the CTS will not leave the Project Area unimpeded, the Designated Biologist(s) shall capture and relocate the CTS as per the CDFW-approved CTS Mortality Reduction and Relocation Plan described in Condition of Approval 7.6, after receiving approval from the CDFW Regional Representative. If, at any time, a CTS is found in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of discovery.

- 8.13. Materials Inspection. Workers shall thoroughly inspect all construction pipe or similar material with a diameter of one (1) inch or greater that are stored for one or more overnight periods for CTS before the material is subsequently moved, buried, or capped. If, during inspection, a CTS is discovered inside a pipe or similar material, workers shall notify the Designated Biologist(s) and allow the animal to safely escape that section of the structure and allow it to move unimpeded out of the Project Area before allowing work to continue. Alternatively, if the CTS will not leave the Project Area unimpeded, the Designated Biologist(s) shall capture and relocate the CTS as per the CDFW-approved CTS Mortality Reduction and Relocation Plan described in Condition of Approval 7.6, after receiving approval from the CDFW Regional Representative. If, at any time, a CTS is found in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of discovery.
- 8.14. Night Work. All Covered Activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise except when night work is associated with an emergency response (defined by an imminent threat to life or significant property). Permittee shall ensure that all vehicle traffic necessary during nighttime hours associated with an emergency response shall be conducted with extra caution to minimize impacts to the Covered Species. Permittee shall use sunrise and sunset times established by the United States Naval Observatory Astronomical Applications Department for the geographic area where the Project is located.
- 8.15. Stockpiles. Permittee shall ensure that soil stockpiles are placed where soil shall not pass into potential CTS breeding pools; nor shall it pass into any "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect/cover stockpiles to prevent soil erosion.
- 8.16. Record of Handling and Covered Species Reporting. All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System technology; the name of the party that actually identified the animal; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, and age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 7.8. This information should also be included in the Quarterly Compliance Reports.

- 8.17. Best Management Practices. Permittee shall implement Best Management Practices (BMPs), including a Storm Water Pollution Plan and Water Pollution Control Program, to minimize effects to CTS during Covered Activities. Permittee shall implement BMPs to prevent sedimentation from entering into Environmentally Sensitive Areas and to reduce erosion, dust, noise, and other deleterious aspects of construction-related Covered Activities. These BMPs may include, but not be limited to, silt fencing, temporary berms, restrictions on cleaning equipment in or near Environmentally Sensitive Areas, and temporary sediment disposal.
- 8.18. SWHA Surveys. The Designated Biologist shall conduct preconstruction surveys during the nesting season (February 15 through September 15) at and within 0.5 mile of the Project Area. The Designated Biologist or Designated Representative shall provide the survey results to CDFW in a written report at least five (5) days prior to beginning Covered Activities.
- 8.19. SWHA Nest(s). If a SWHA nest is found at or within 0.5 mile of the Project Area, the Designated Biologist shall be present daily for the entire duration of any Covered Activities occurring during the nesting season (February 15 through September 15) and within 0.5 mile of the active nest, to monitor the behavior of the potentially affected SWHA. The Designated Biologist shall order the cessation of all Covered Activities if the bird(s) exhibits any distress and/or abnormal nesting behavior (swooping/stooping, excessive vocalization [distress calls], agitation, failure to remain on nest, failure to deliver prey items for an extended time period, failure to maintain nest, etc.) which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Permittee shall not resume Covered Activities until CDFW has been consulted by the Designated Biologist, and both the Designated Biologist and CDFW confirm that the bird's behavior has returned to normal.
- 8.20. SWHA Nest Buffers. The Permittee and Designated Biologist shall ensure that no Covered Activities occur within 100 feet of a SWHA nest during the nesting season (February 15 through September 15). The 100-foot no-disturbance buffer shall not be reduced or otherwise modified without prior written CDFW approval. Worker foot traffic, water and restroom facilities, employee break areas (permanent or temporary), and worker vehicle parking is prohibited within 1,000 feet of any SWHA nest without prior written CDFW approval.
- 8.21. SWHA Nest Abandonment. If a SWHA nest is abandoned, the Permittee shall notify CDFW immediately and initiate actions to salvage any abandoned eggs or hatchlings in accordance with the CDFW-approved Nest Abandonment Contingency Plan required in Condition of Approval 7.7.

8.22. Covered Species Injury. If a Covered Species is injured as a result of Covered Activities, the Designated Biologist(s) shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the name of the facility in the animal was taken and shall bear all costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. Notification to CDFW shall be via telephone or e-mail, followed by a written incident report as described in Condition of Approval 7.10. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was taken.

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 purchase thirty-five (35) Covered Species credits from a CDFW-approved mitigation or conservation bank(s) (Condition of Approval 9.2) prior to initiating Covered Activities OR shall provide for both the permanent protection and management of 35 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. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. The Permittee shall also restore on-site 47.51 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.6 below.

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

9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$9,073.89/acre for 35 acres:
\$317,586.15. 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 **\$54,001.24**;
 - 9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at **\$49,608.68**;
 - 9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$9,458/acre for 35 acres: **\$331,030**. 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 **\$12,000**.
- 9.2. Covered Species Credits. Permittee shall thirty-five (35) Covered Species credits from a CDFW-approved mitigation or conservation bank(s), and (2) provide CDFW with a copy of the conservation credit certificate issued by the CDFW-approved mitigation or conservation bank. A copy of the credit certificate shall be kept at the Project site while conducting Covered Activities.

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 3A) 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 3B). 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 <http://www.dfg.ca.gov/habcon/conplan/mitbank/>); (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, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

9.4. Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 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 34.86 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within two (2) months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to return the 34.86 acres of temporary construction disturbance on-site to pre-project conditions and shall

ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The plan shall also indicate the best time of year for seeding to occur.

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 **\$764,226.07**. 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 4) 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 5) 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:
 - Completion of the on-site restoration; and
 - Timely submission of all required reports.

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, California 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 (2081-2018-067-04) in a cover letter and on any other associated documents.

Incidental Take Permit
No. 2081-2018-067-04
CALIFORNIA DEPARTMENT OF WATER RESOURCES
EASTSIDE BYPASS IMPROVEMENTS PROJECT

Original cover with attachment(s) to:

Julie A. Vance, Regional Manager
California Department of Fish and Wildlife
Region 4 – Central Region
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4005
Fax (559) 243-4020

and a copy to:

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

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

Jim Vang, Environmental Scientist
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4014, extension 254
Fax (559) 243-3004

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, California Department of Water Resources. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Eastside Bypass Improvements Project, (SCH No.: 2017121026) dated December 11, 2017, that the California Department of Water Resources adopted for Eastside Bypass Improvements Project on May 1, 2018. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's Mitigated Negative Declaration for the Project and the environmental effects related to issuance of this

Incidental Take Permit
No. 2081-2018-067-04
CALIFORNIA DEPARTMENT OF WATER RESOURCES
EASTSIDE BYPASS IMPROVEMENTS PROJECT

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

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Eastside Bypass Improvements Project, 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) the relocation of individuals of the Covered Species from within the Project Area; (2) establishment of avoidance zones; (3) worker education; and (4) Quarterly 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 protection and management in perpetuity of 35 acres of compensatory habitat that is of higher quality than the habitat being destroyed by the Project or the purchase of thirty-five (35) Covered Species credits of Covered Species habitat at a CDFW-approved mitigation and conservation bank prior to groundbreaking along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;

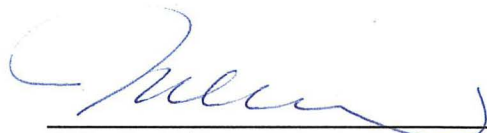
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee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

Attachments:

FIGURE 1	Regional Location
FIGURE 2	Location of Project Elements
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice
ATTACHMENT 3A, 3B	Proposed Lands for Acquisition Form; Habitat Management Lands Checklist
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 6/12/19

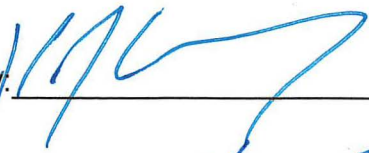


Julie A. Vance, Regional Manager
CENTRAL REGION

Incidental Take Permit
No. 2081-2018-067-04
CALIFORNIA DEPARTMENT OF WATER RESOURCES
EASTSIDE BYPASS IMPROVEMENTS PROJECT

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: 7/9/2019

Printed Name: KEVIN FAULKENBERRY Title: CHIEF SCRO

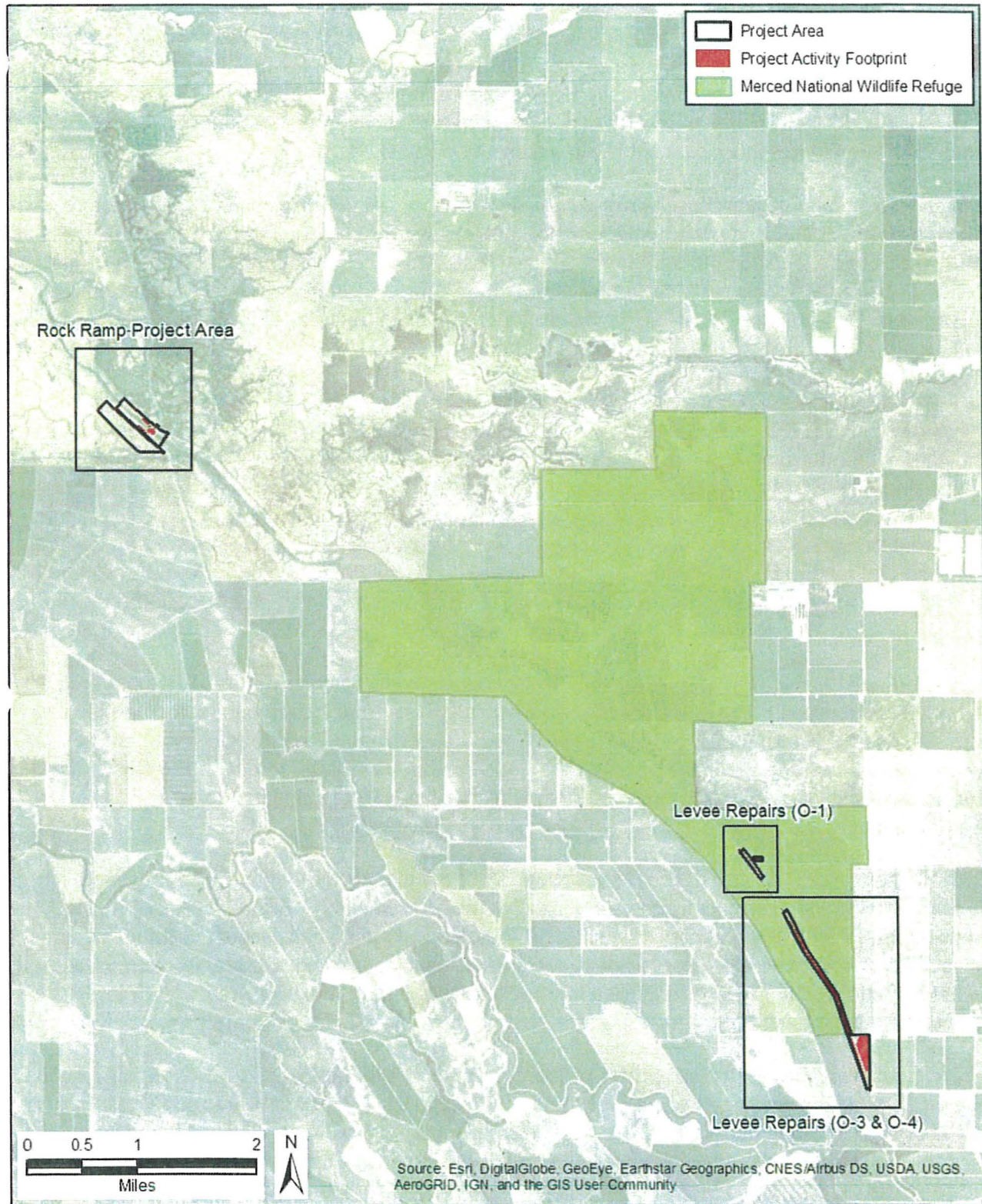
Incidental Take Permit
No. 2081-2018-067-04
CALIFORNIA DEPARTMENT OF WATER RESOURCES
EASTSIDE BYPASS IMPROVEMENTS PROJECT

Figure 1. Regional Location



Source: ESRI 2017; Environmental Science Associates 2017

Figure 2. Location of Project Elements



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29JUN2018 BIMC

Source: NAIP 2016; CDM Smith 2017; California Protected Areas Database 2015; Environmental Science Associates 2017; GEI Consultants, Inc. 2018

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2018-067-04

PERMITTEE: California Department of Water Resources

PROJECT: Eastside Bypass Improvements Project

PURPOSE OF THIS MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	<u>Designated Representative</u> . Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<u>Designated Biologist</u> . Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed. The Designated Biologist(s) may be assisted by approved individuals identified as Designated Monitors that may not meet the qualifications to be a Designated Biologist. Designated Monitors and their activities shall be approved in advance and in writing by CDFW.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	<u>Education Program</u> . Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	<u>Trash Abatement</u> . Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
5	<u>Dust Control</u> . Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	<u>Delineation of Property Boundaries</u> . Before starting Covered Activities within the Project Area, 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.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	<u>Delineation of Habitat</u> . Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	<u>Notification Before Commencement</u> . The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	<u>CTS Mortality Reduction and Relocation Plan</u> . The Designated Biologist(s) shall prepare a CTS Mortality Reduction and Relocation Plan. It shall include, but not be limited to, a description (with maps) of the suitable breeding and upland habitat at and near the Project Area; the portion of the Project Area which represents suitable upland habitat for the Covered Species; a discussion of the survey, excavation, capture, handling, and relocation methods; description of what burrows will be excavated; identification of where the individuals will be relocated to; and identification of a wildlife rehabilitation center or veterinary facility. The Covered Species Mortality Reduction and Relocation Plan will be submitted to CDFW for approval prior to the beginning of the Covered Activities. Covered Activities within the delineated habitat portion (Condition of Approval 6.10) of the Project Area shall not proceed until the CTS Mortality Reduction and Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.	ITP Condition # 7.6	Before commencing ground- or vegetation-disturbing activities		
10	<u>SWHA Nest Abandonment Contingency Plan</u> . The Designated Biologist shall submit a Nest Abandonment Contingency Plan to CDFW for written approval prior to the start of Covered Activities. The plan shall include, but not be limited to, identification of capture methods, handling methods, methods to return SWHA back into the wild, and the identification of a CDFW-approved wildlife rehabilitation center or veterinary facility. The Permittee shall fund the recovery and hacking (controlled release) of the SWHA nestlings.	ITP Condition # 7.7	Before commencing ground- or vegetation-disturbing activities		
11	<u>Delineation of Ingress and Egress Routes</u> . Permittee shall flag all access roads in the field from the paved road and vehicle operation shall be limited to these designated ingress and egress routes.	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
12	<u>CTS Pre-Activity Clearance Surveys</u> . The Designated Biologist(s) shall perform Pre-Activity Clearance Surveys for CTS within the Project Area no more than 14 days prior to starting Covered Activities. These surveys shall provide 100 percent visual coverage of the Project Area and a 50-foot buffer zone. If any life stages (adults, eggs, or larvae) of CTS are found, the Designated Biologist(s) shall capture and relocate the CTS as per the CDFW-approved CTS Mortality Reduction and Relocation Plan described in Condition of Approval 7.6. The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities.	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
13	<u>Flag Burrows</u> . The Designated Biologist(s) shall flag all potential small mammal burrows identified within the Project Area during the Pre-Activity Clearance Survey (Condition of Approval 8.3) to alert work crews to their presence.	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities	Permittee	
14	<u>Small Mammal Burrow Surveys and Excavation</u> . Small mammal burrows identified during CTS Pre-Activity Clearance Surveys (Condition of Approval 8.3) which cannot be fully avoided by at least 50 feet should be flagged per Condition of Approval 8.4. Small mammal burrows shall be fully excavated by the Designated Biologist(s) based on the approved CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.6. The Designated Biologist(s) shall relocate any live CTS discovered during burrow excavation in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.6 above. Excavation shall occur no more than 14 days after the completion of the Pre-Activity Clearance Surveys as described in Condition of Approval 8.3 above.	ITP Condition # 8.5	Before commencing ground- or vegetation-disturbing activities	Permittee	
15	<u>CTS Exclusion Fencing</u> . After the clearance survey and CTS relocation efforts (Conditions of Approval 8.3, 8.4, and 8.5) are complete, Permittee shall install temporary exclusion fencing around the perimeter of the Project Area to prevent CTS from migrating into the Project Area. The Permittee shall submit the type of fencing material and design for CDFW written approval before exclusion fencing installation. The exclusion fence shall be buried a minimum of four inches below ground surface and shall be equipped with one-way exits to avoid entrapment of CTS and other amphibians or reptiles. The Permittee shall also avoid small mammal burrows by a minimum of 50 feet during the installation of the exclusion fencing or as approved in the CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.6.	ITP Condition # 8.6	Before commencing ground- or vegetation-disturbing activities	Permittee	
16	<u>SWHA Surveys</u> . - The Designated Biologist shall conduct preconstruction surveys during the nesting season (February 15 through September 15) at and within 0.5 mile of the Project Area. The Designated Biologist or Designated Representative shall provide the survey results to CDFW in a written report at least five (5) days prior to beginning Covered Activities.	ITP Condition # 8.18	Before commencing ground- or vegetation-disturbing activities	Permittee	
17	<u>Habitat Management Land Acquisition and Restoration</u> . Permittee shall purchase thirty-five (35) Covered Species credits from a CDFW-approved mitigation or conservation bank(s) (Condition of Approval 9.2) prior to initiating Covered Activities OR shall provide for both the permanent protection and management of 35 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. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. The Permittee shall also restore on-site 47.51 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.6 below.	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
18	<p><u>Cost Estimates.</u> CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:</p> <ul style="list-style-type: none"> i) Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$9073.89/acre for 35 acres: \$317,586.15. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements; ii) 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 \$54,001.24; iii) Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at \$49,608.68; iv) Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$9,458/acre for 35 acres: \$331,030. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management. v) 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 \$12,000. 	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><u>Covered Species Credits.</u> Permittee shall thirty-five (35) Covered Species credits from a CDFW-approved mitigation or conservation bank(s), and (2) provide CDFW with a copy of the conservation credit certificate issued by the CDFW-approved mitigation or conservation bank. A copy of the credit certificate shall be kept at the Project site while conducting Covered Activities.</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	<u>Fee Title/Conservation Easement</u> . To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall 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);	ITP Condition #9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
21	<u>HM Lands Approval</u> . Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;	ITP Condition #9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
22	<u>HM Lands Documentation</u> . Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;	ITP Condition #9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
23	<u>Land Manager</u> . Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.	ITP Condition #9.3.4	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
24	<u>Start-up Activities.</u> Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see http://www.dfg.ca.gov/habcon/conplan/mitbank/); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;	ITP Condition #9.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
25	<u>Interim Management (Initial and Capital).</u> Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition #9.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
26	<u>Endowment Fund.</u> The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the 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 the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the 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 the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.	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
27	<u>Identify an Endowment Manager.</u> The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within 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).;	ITP Conditions #9.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
28	<u>Calculate the Endowment Funds Deposit.</u> After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.	ITP Conditions #9.4.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
29	<u>Capitalization Rate and Fees.</u> Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.	ITP Conditions #9.4.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
30	<p><u>Endowment Buffers/Assumptions.</u> Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <ul style="list-style-type: none"> • <u>10 Percent Contingency.</u> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. • <u>Three Years Delayed Spending.</u> The endowment shall be established assuming spending will not occur for the first three years after full funding. • <u>Non-annualized Expenses.</u> For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW. 	ITP Conditions #9.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
31	<p><u>Transfer Long-term Endowment Funds.</u> Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p>	ITP Conditions #9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
32	<p><u>Reimburse CDFW.</u> Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.</p>	ITP Conditions #9.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
33	<p><u>Habitat Restoration.</u> Permittee shall restore on-site the 34.86 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within two (2) months of issuance of the ITP, the Permittee shall prepare a Vegetation Restoration Plan to return the 34.86 acres of temporary construction disturbance on-site to pre-project conditions and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The plan shall also indicate the best time of year for seeding to occur.</p>	ITP Conditions #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
34	<p>The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <ol style="list-style-type: none"> <u>Security Amount</u>. The Security shall be in the amount of \$764,226.07. This amount is based on the cost estimates identified in Condition of Approval 9.1 above. <u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. <u>Security Timeline</u>. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first. <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW. <u>Security Transmittal</u>. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other. <u>Security Drawing</u>. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of the ITP. <u>Security Release</u>. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by: <ul style="list-style-type: none"> Completion of the on-site restoration; and Timely submission of all required reports. 	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
DURING CONSTRUCTION					
35	<p><u>Compliance Monitoring</u>. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP. The Designated Biologist shall conduct compliance inspections a minimum of [frequency of compliance inspections during periods of inactivity and after clearing, grubbing, and grading are completed.</p>	ITP Condition # 7.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
36	<u>Quarterly Compliance Report.</u> The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted no later than the 5 th day of the month the Report is due to the CDFW offices listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative, the Region's CESA Program, and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Representative is Jim Vang (Jim.Vang@wildlife.ca.gov), the Regional Office CESA Program email is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.4	Entire Project	Permittee	
37	<u>Annual Status Report.</u> Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in this MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) all accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 7.5	Entire Project	Permittee	
38	<u>CNDDDB Observations.</u> The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.8	Entire Project	Permittee	
39	<u>Notification of Non-compliance.</u> The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	
40	<u>Construction Monitoring Notebook.</u> The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
41	<u>Erosion Control Materials.</u> Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 6.8	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
42	<u>Project Access.</u> Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.11	Entire Project	Permittee	
43	<u>Staging Areas.</u> Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of the ITP.	ITP Condition # 6.12	Entire Project	Permittee	
44	<u>Hazardous Waste.</u> Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 6.13	Entire Project	Permittee	
45	<u>CDFW Access.</u> Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 6.14	Entire Project	Permittee	
46	<u>Designated Biologist On-site.</u> The Designated Biologist shall be on-site during all ground-disturbing or vegetation-disturbing activities that may result in the take of Covered Species.	ITP Condition # 8.1	Entire Project	Permittee	
47	<u>Exclusion Fencing Installation.</u> The Designated Biologist(s) shall accompany the exclusion fence construction crew to ensure that CTS are not killed or injured during fence installation. The exclusion fencing shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the Covered Activities. The Designated Biologist(s) shall check the exclusion fence at least once weekly and inform Permittee of necessary maintenance or repairs. Exclusion fence shall be removed immediately upon completion of Covered Activities.	ITP Condition # 8.7	Entire Project	Permittee	
48	<u>Fieldwork Code of Practice.</u> To ensure that the Designated Biologist(s) does not convey disease between the Project Area and areas outside the Project Area, the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) shall be followed at all times. The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. The Designated Biologist(s) will ensure that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 8.8	Entire Project	Permittee	
49	<u>CTS Observations.</u> All workers shall inform the Designated Biologist(s) if a CTS is seen within or near the Project Area. All work in the vicinity of the CTS, which could injure or kill the animal, shall cease immediately until the CTS moves from the Project Area of its own accord or is relocated by the Designated Biologist(s) in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan specified in Condition of Approval 7.6 above.	ITP Condition # 8.9	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
50	<u>Open Excavation Inspection.</u> The Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped CTS. To prevent inadvertent entrapment of CTS, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. The Designated Biologist(s) shall thoroughly inspect all trenches, holes, sumps, and other excavations for CTS (or other wildlife) before they are back-filled. If any worker discovers that CTS have become trapped, Permittee shall cease all Project-related activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall provide the opportunity for the CTS to escape unimpeded out of the Project Area before allowing work to continue. Alternatively, if the CTS will not leave the Project Area unimpeded, the Designated Biologist(s) shall capture and relocate the CTS as per the CDFW-approved CTS Mortality Reduction and Relocation Plan described in Condition of Approval 7.6, after receiving approval from the CDFW Regional Representative. If, at any time, a CTS is found incidentally trapped in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of the incident.	ITP Condition # 8.10	Entire Project	Permittee	
51	<u>Rain Forecast.</u> The Designated Biologist(s) and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area if Covered Activities within CTS habitat are scheduled to occur from October 15 through January 15. If a 70 percent or greater chance of rainfall is predicted within 24 hours of Project activity, the Designated Biologist(s) shall survey the Project Area before Covered Activities begin each day rain is forecast in order to capture and relocate CTS that are discovered during the surveys. If precipitation begins during Covered Activities, the Designated Biologist(s) shall remain at the Project Area for the duration of the rain event in order for Covered Activities to continue. If rain exceeds ½ inch during a 24-hour period, all Covered Activities shall cease until it is no longer raining and no further rain is forecast. Covered Activities may continue in the Project Area under these conditions if the exclusion fence has been installed as required by Conditions of Approval 8.6 and 8.7.	ITP Condition # 8.11	Entire Project	Permittee	
52	<u>Equipment Inspection.</u> Workers shall inspect for CTS under vehicles and equipment before the vehicles and equipment are moved. If a CTS is discovered during inspection, the worker shall notify the Designated Biologist(s) and wait for the CTS to move unimpeded out of the Project Area. Alternatively, if the CTS will not leave the Project Area unimpeded, the Designated Biologist(s) shall capture and relocate the CTS as per the CDFW-approved CTS Mortality Reduction and Relocation Plan described in Condition of Approval 7.6, after receiving approval from the CDFW Regional Representative. If, at any time, a CTS is found in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of discovery.	ITP Condition # 8.12	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
53	<u>Materials Inspection.</u> Workers shall thoroughly inspect all construction pipe or similar material with a diameter of one (1) inch or greater that are stored for one or more overnight periods for CTS before the material is subsequently moved, buried, or capped. If, during inspection, a CTS is discovered inside a pipe or similar material, workers shall notify the Designated Biologist(s) and allow the animal to safely escape that section of the structure and allow it to move unimpeded out of the Project Area before allowing work to continue. Alternatively, if the CTS will not leave the Project Area unimpeded, the Designated Biologist(s) shall capture and relocate the CTS as per the CDFW-approved CTS Mortality Reduction and Relocation Plan described in Condition of Approval 7.6, after receiving approval from the CDFW Regional Representative. If, at any time, a CTS is found in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of discovery.	ITP Condition # 8.13	Entire Project	Permittee	
54	<u>Night Work.</u> All Covered Activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise except when night work is associated with an emergency response (defined by an imminent threat to life or significant property). Permittee shall ensure that all vehicle traffic necessary during nighttime hours associated with an emergency response shall be conducted with extra caution to minimize impacts to the Covered Species. Permittee shall use sunrise and sunset times established by the United States Naval Observatory Astronomical Applications Department for the geographic area where the Project is located.	ITP Condition # 8.14	Entire Project	Permittee	
55	<u>Stockpiles.</u> Permittee shall ensure that soil stockpiles are placed where soil shall not pass into potential CTS breeding pools; nor shall it pass into any "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect/cover stockpiles to prevent soil erosion.	ITP Condition # 8.15	Entire Project	Permittee	
56	<u>Record of Handling and Covered Species Reporting.</u> All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System technology; the name of the party that actually identified the animal; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, and age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDB as per Condition of Approval 7.8. This information should also be included in the Quarterly Compliance Reports.	ITP Condition # 8.16	Entire Project	Permittee	
57	<u>Best Management Practices.</u> Permittee shall implement Best Management Practices (BMPs), including a Storm Water Pollution Plan and Water Pollution Control Program, to minimize effects to CTS during Covered Activities. Permittee shall implement BMPs to prevent sedimentation from entering into Environmentally Sensitive Areas and to reduce erosion, dust, noise, and other deleterious aspects of construction-related Covered Activities. These BMPs may include, but not be limited to, silt fencing, temporary berms, restrictions on cleaning equipment in or near Environmentally Sensitive Areas, and temporary sediment disposal.	ITP Condition # 8.17	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
58	<u>SWHA Nest(s)</u> . If a SWHA nest is found at or within 0.5 mile of the Project Area, the Designated Biologist shall be present daily for the entire duration of any Covered Activities occurring during the nesting season (February 15 through September 15) and within 0.5 mile of the active nest, to monitor the behavior of the potentially affected SWHA. The Designated Biologist shall order the cessation of all Covered Activities if the bird(s) exhibits any distress and/or abnormal nesting behavior (swooping/stooping, excessive vocalization [distress calls], agitation, failure to remain on nest, failure to deliver prey items for an extended time period, failure to maintain nest, etc.) which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Permittee shall not resume Covered Activities until CDFW has been consulted by the Designated Biologist, and both the Designated Biologist and CDFW confirm that the bird's behavior has returned to normal.	ITP Condition # 8.19	Entire Project	Permittee	
59	<u>SWHA Nest Buffers</u> . The Permittee and Designated Biologist shall ensure that no Covered Activities occur within 100 feet of a SWHA nest during the nesting season (February 15 through September 15). The 100-foot no-disturbance buffer shall not be reduced or otherwise modified without prior written CDFW approval. Worker foot traffic, water and restroom facilities, employee break areas (permanent or temporary), and worker vehicle parking is prohibited within 1,000 feet of any SWHA nest without prior written CDFW approval.	ITP Condition # 8.20	Entire Project	Permittee	
60	<u>SWHA Nest Abandonment</u> . If a SWHA nest is abandoned, the Permittee shall notify CDFW immediately and initiate actions to salvage any abandoned eggs or hatchlings in accordance with the CDFW-approved Nest Abandonment Contingency Plan required in Condition of Approval 7.7.	ITP Condition # 8.21	Entire Project	Permittee	
61	<u>Covered Species Injury</u> . If a Covered Species is injured as a result of Covered Activities, the Designated Biologist(s) shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the name of the facility in the animal was taken and shall bear all costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. Notification to CDFW shall be via telephone or e-mail, followed by a written incident report as described in Condition of Approval 7.10. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was taken.	ITP Condition # 8.22	Entire Project	Permittee	
62	<u>Notification of Take or Injury</u> . Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition # 7.10	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
63	<u>Designated Biologist Authority.</u> 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 any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Entire Project	CDFW	
POST-CONSTRUCTION					
64	<u>Refuse Removal.</u> Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all fill material 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 # 6.15	Post-construction	Permittee	
65	<u>Final Mitigation Report.</u> No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 7.9	Post-construction and after completion of mitigation	Permittee	

The Declining Amphibian Task Force Fieldwork Code of Practice

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

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



ATTACHMENT 3A

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: _____

ATTACHMENT 3B
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)

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

Issue Date: [**date**]

Beneficiary:

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 Department of Fish and Wildlife, the General Counsel of the Department of Fish and Wildlife, or a Regional Manager of the 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: 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 Department of Fish and Wildlife ("CDFW"), as defined in paragraph 12 in the above-referenced Irrevocable Standby Letter of Credit ("Credit"), hereby certifies to the Issuer that:

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

ATTACHMENT B

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

To:

[Name of financial institution and address]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

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

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

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

4. AGREEMENT/ACCOUNT INFORMATION: (check the applicable type)

☐ 2081 Permit
 ☐ Conservation Bank
 ☐ 2835 NCCP
 ☐ 1802 Agreement
 ☐ 1600 Agreement
 ☐ Other _____

Project Tracking Number

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

Check information:

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

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

b. Habitat Enhancement Subtotal \$ _____

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ _____

2. Letter of Credit Subtotal \$ _____

1. Financial Institution: _____

2. Letter of Credit Number: _____

3. Date of Expiration: _____

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