



State of California –Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670-4599
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



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HABITAT CONSERVATION
PLANNING BRANCH

www.wildlife.ca.gov

July 30, 2019

Juan Suarez
Rancho Seco Solar II LLC
909 Lake Carolyn Parkway, Suite 260
Irving, Texas 75039

**Subject: INCIDENTAL TAKE PERMIT REVISION, RANCHO SECO SOLAR II PROJECT
(2081-2018-057-02)**

Dear Mr. Suarez:

Enclosed you will find two revised originals of the incidental take permit for the above referenced Project. Please read the permit carefully, update the original permit with the new pages 15-26, sign the acknowledgement on both copies of the permit, and return one original **no later than 30 days from Department signature**, and prior to initiation of ground-disturbing activities, to:

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

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

The permit will not take effect until the signed acknowledgement is received by the Department. If you wish to discuss these instructions or have questions regarding the permit, please contact Dylan Wood, Environmental Scientist, at 916-358-2384.

Sincerely,
Dylan Wood
Environmental Scientist

Enclosures (2)



California Department of Fish and Wildlife
North Central Region
1701 NIMBUS ROAD
RANCHO CORDOVA, CA 95670

California Endangered Species Act
Incidental Take Permit No. 2081-2018-057-02

RANCHO SECO SOLAR II 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:	Rancho Seco II LLC
Principal Officer:	Juan Suarez, Director EPC
Contact Person:	Juan Suarez, (505) 218-2935
Mailing Address:	909 Lake Carolyn Parkway, Suite 260 Irving, Texas 75039

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 **July 1, 2059**.

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 7.7 of this ITP.

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

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 project is located at 14960 Twin Cities Road in the City of Herald, in the County of Sacramento, State of California; Latitude 38°20'42", Longitude 121°07'19" or Sections 28 29, 32, Township 6N, Range 8E, U.S. Geological Survey (USGS) map Clay and Goose Creek; Assessor's Parcel Numbers 140-0050-008, 140-0050-0011, 140-0050-0010 and 140-0050-0013.

Project Description:

The Project includes construction and operation of a new photovoltaic (PV) solar power facility and decommissioning and removal of an existing solar power facility shown in Figure 1. The Project encompasses approximately 554 acres comprised of the PV solar panels, inverters, a substation, switchyard, battery storage and interconnection to the existing transmission system.

A variety of construction equipment will be used including scrapers, dozers, dump trucks, watering trucks, motor graders, vibratory compactors, and backhoes. Occasional use of loaders, excavators, skid loaders, road reclaimers, post and pile drivers, forklifts, mobile cranes, and a boom lift is anticipated. Hand crews will be working in and around watercourses during the Project.

The Project is estimated to span approximately 13 months and include two phases. Phase 1 includes Zones 1-3 and Phase 2 includes Zone 4 shown in Figure 2. Both Phases include the following components for construction and installation of the new solar facility:

PV5 Decommission

Equipment, structures, and foundations from an existing solar array on the Project site will be decommissioned. As a part of the decommission, Permittee will disconnect the solar array from the electrical grid and remove panels from the posts. One inverter will be disconnected, and all steel support structures will be cut before removal from the site. Concrete support column foundations, concrete pads, and protective bollards will be excavated and removed using a backhoe or other heavy equipment. Following the removal of these structures, any residual holes within the PV5 area will be graded and compacted. All material from the PV5 decommission will either be removed from the Project site or be recycled for other Project uses.

Access Road Construction

Primary access to the Project site during construction and operation will be from Twin Cities Road or Clay East Road. A permanent earth or gravel road, 12 to 20 feet wide, will be

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constructed throughout the site to allow construction of the PV modules, provide access to the solar equipment and accommodate on-going maintenance of the solar facilities and emergency vehicles.

Access Road Culvert Construction

There are approximately 23 locations where access roads will cross ephemeral drainages and wetland swales. A total of 24 culverts will be constructed at these crossings. Culverts will either be corrugated metal pipe or reinforced concrete pipe with un-grouted rock energy dissipaters to protect against scour. Culverts will have a 4:1 max slope and will have a length of between 18-feet and 20-feet on either side of the access road. 24-inches of course filter aggregate will be placed in the bed of the drainages and swales. Construction of the culverts will involve grading to remove all vegetation within the culvert footprint, grading the soil from the drainage bed approximately 1-foot down and backfilling the excavated area with compacted subbase rock. The culvert will be placed on the subbase and covered with soil to match the grade of the new access road.

Solar Array Piles and Construction

Approximately 425 acres of Solar PV module arrays will be installed throughout the Project site. These consist of a PV panel, fixed tilt brackets, direct current combiner wires and box, and foundation poles. The fixed tilt racking would be bolted to a 4-inch by 6-inch steel "H" pile post driven into the ground between 5-feet and 9-feet deep depending on soil and hydrological conditions. Typically, piles are spaced approximately 10-feet apart within the rows of panels. Piles are installed by first laying them out on the ground and then using a tracked pile driver to vibrate the pile into the ground. Pile driving would continue in a straight line across the array location. Approximately 4-feet to 6-feet of the "H" pile posts would remain above ground. If these posts are not feasible in certain areas other embedded designs may be utilized, including helical piles, earth screws, and ballasted foundations. The top of the PV modules would be approximately 8-feet to 2-feet off the ground surface. Assembly of the array includes use of hand tools to install panels onto the piles. Approximately total 73,628 piles will be needed (4 per solar array), 991 of which will occur within a watercourse.

Inverters

Approximately 60 Power Conversion Stations (inverters) will be constructed within the Project site. Inverter pads will primarily be used for power conversion, but some may include meteorological and/or telecommunication stations as well. Each inverter will be constructed

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on a concrete foundation approximately 34-feet by 12-feet. Each foundation is typically 6-inch deep concrete with a 12-inch by 24-inch deep footing. Construction will be typical for concrete foundations and will include excavation, erection of concrete forms, pour, and finish concrete. To provide access and reduce fire hazards, vegetation within a 30-foot radius around the inverters will be maintained periodically.

Overhead and Underground Lines

The power from the solar arrays will be collected behind the solar panels, aggregated and directed via underground direct buried cable next to the Power Conversion Stations. The underground cable will be installed using an open trench technique within the solar arrays. Trenches for the cable will be approximately 3-feet to 5-feet deep and 2-feet to 4-feet wide. The trenches will be backfilled, and previous contours restored to the maximum extent feasible. If necessary, the bottom of the trench will be filled with sand to provide a protective bedding for the cables. Approximately 330 utility poles would be needed to create the overhead medium voltage alternating current lines. Each pole will be spaced 150-feet apart and require a 60-inch disturbance area. Pole lines are connected to the switchyard.

Solar Substation and SMUD Switchyard

Existing infrastructure on the Project site in previously disturbed areas will be improved to accommodate a new solar substation consisting of electrical equipment, generators, and other infrastructure. Structures will range from 20-feet to 60 feet tall and will be supported with concrete pads. The new substation will be surrounded using a standard chain-link security fence. In addition, east and west buses of the switchyard will be expanded to accommodate new infrastructure including breaker bays, metering units, voltage transformers, and a disconnect switch. Additional foundations will be needed to accommodate this expansion. A new interconnection line is anticipated to connect the substation and switchyard.

Fencing and Lighting

A 7-foot tall chain-linked security fence will be installed to restrict access to the Project site. The fence will border the perimeter of the site and contain a permanent firebreak. The fence will have a small gap to allow passage for small wildlife. The fire break will be maintained using mowing/discing. Construction of the fence and maintenance of the fire break will occur through some of the unnamed watercourses. Additional lighting will be installed but will occur predominantly in disturbed areas such as the substation, switch yard, and utility power systems.

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The Project includes the following components for ongoing maintenance of the new solar facility, estimated to span approximately 35 years:

Water Trough

An existing water trough used for grazing animals will be developed as a part of the solar facility construction. As a result, a new water trough will be constructed on a concrete foundation approximately 20-feet by 15-feet. Water will be sourced from an existing irrigation line from the adjacent road leading to Rancho Seco Park. The pipe will be approximately 55-feet long and 12-inches deep. Construction will be typical for concrete foundations and piping and will include excavation, erection of concrete forms, pour, and finish concrete. To provide access, a 7-foot buffer path will be needed around the line and a 5-foot buffer around the trough.

Preventative Maintenance

The Permittee will be conducting maintenance throughout the facility. Table 1 identifies 21 common maintenance tasks to be performed regularly through the life of the Project. Each activity will commonly be carried out by 2 technicians using the defined access roads or uncommon use of foot travel/all-terrain vehicles throughout the array. Activities are anticipated to take a few days each, but given the size of the Project site, maintenance may occur over longer periods. Preventative maintenance will begin in some Project areas while other areas are currently under construction.

Table 1. Typical Preventative Maintenance

Maintenance Activity	Frequency
Visual inspection of general site conditions, PV arrays, electrical equipment, mounting structure, fence, shading, racking, vegetation, animal damage, erosion, corrosion, and discolored modules. Clear debris within the fenced area.	1x per year
Visual inspection and correction of system for loose electrical connections and ground connections.	1x per year
Visual inspection of medium voltage transformers, including meters, oil gauge, and temperature gauge. Dissolved Gas Analysis for Skid and generator step up transformer.	1x per year
Perform Voltage Open Circuit (VOC) and Current Short Circuit (ISC) testing on 10% of strings.	1x per year
Inspect all switches, fuses, and disconnects; test to ensure they are not jammed.	1x per year
Perform Infrared scans on 10% of combiner boxes, re-combiner boxes, string boxes, and tighten connections; report broken terminal blocks and unresolved "warm" connections.	1x per year
Inspect all sensors and meters, including pyranometers, anemometers, and tilt	1x per year

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sensors.	
Record meter readings as available.	1x per year
Clean pyranometers; Turn off and on to ensure they are communicating and ensure battery backups are working.	1x per year
Calibrate units per manufacturer's instructions, report serial numbers of any exchanged units.	1x per year
Inverter preventive maintenance for inverters per manufacturer's operating guidelines.	1x per year
Clean inverter cabinet air vents with a small vacuum.	1x per year
Change inverter air filters per manufacturer's warranty requirements (Replacement filters to be provided by Owner).	1x per year
Clean and remove dust with a vacuum from inverter heat sinks per manufacturer's warranty requirements.	1x per year
Check torque marks and re-tighten appropriate wiring connections to design specification torque force per manufacturer's guidelines.	1x per year
Perform thermal imaging and address connections and hot spots.	1x per year
Perform fixed racking preventive maintenance per manufacturer's Owner Manual.	1x per year
Coordinate, perform and evaluate aerial infrared ("IR") thermal imaging of the Project in order to identify module and string-level performance deficiencies. Operator shall evaluate the IR imaging results and provide a detailed report with its findings including, but not limited to, a site plan displaying faults/issues and a summary of the faults/issues found, their location, impact (kW's lost) and type. Corrective action to remediate deficiencies found during the imaging audit will be subject to Customer's approval and performed by Operator as Additional Services.	1x per year
Substation Monthly Visual Inspections: <ul style="list-style-type: none"> • Visually inspect for debris. Inspect all grounding connections. • Verify adequate gas levels and • Validate against the monitoring system specifications. 	1x per year
Substation testing performed in accordance with NETA-MTS standards (non-optional testing only), includes annual (NETA-MTS Section A) and quadrennial (NETA-MTS Section B) testing of the following components based on industry standard substation design for this size facility: <ul style="list-style-type: none"> • Each of the following components - High side air switch, set of HV CT's and PT's (if not utility owned), GSU transformer, set of LV PT's, battery system, station service transformer, meter, cap switcher, cap bank, and cap bank PT • Each feeder breakers and low side air switches • Each relay 	1x per year
Gen-Tie: <ul style="list-style-type: none"> • Visually inspect Gen-Tie for loose connections. • IR scan connections for hot spots. • Provide report on findings. 	1x per year

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Module Washing

PV modules or solar panels may be washed with clean potable water one time per year, typically in middle to late summer. Equipment approximately the size of a pickup truck and trailer to traverse between each row of the solar panels.

Vegetation Control

Vegetation control includes using a commercial grade mower to mow across the site between and underneath solar panel rows. No chemical herbicides or pesticides will be used in the array field, nor is activity beyond mowing anticipated. Chemical herbicides may be used in a 30-foot radius around inverter pads.

Reactive Maintenance and Inverter Maintenance

Reactive maintenance may be needed to correct a problem immediately outside the planned, preventative maintenance. This is usually infrequent, occurring at a single location within the array once or twice a year. Inverter replacement may be necessary over the project life and will take one to two weeks per inverter. This activity will occur on existing roads and inverter pads.

Decommission

At the end of the Project's useful life, the Project site will be decommissioned. Methodology is anticipated to be similar to the PV5 Decommission described above but exact details cannot be anticipated given the life of the Project. Permittee will submit a decommission plan when the decommission date is determined.

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

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

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above are expected to result in incidental take of individuals of the Covered Species include the PV5 Decommission, Access Road Construction, Access Road Culvert Construction, Solar Array Piles and Construction, construction of Inverters, construction of Overhead and Underground Lines,

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

creation or expansion of the Solar Substation and SMUD Switchyard, installation of Fencing and Lighting, construction of the Water Trough, implementation of Preventative Maintenance, Module Washing, Vegetation Control, Reactive Maintenance, and Decommission of the facility (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as the PV5 Decommission, Access Road Construction, Access Road Culvert Construction, Solar Array Piles and Construction, construction of Inverters, construction of Overhead and Underground Lines, creation or expansion of the Solar Substation and SMUD Switchyard, installation of Fencing and Lighting, construction of the Water Trough, implementation of Preventative Maintenance, Module Washing, Vegetation Control, Reactive Maintenance, and Decommission of the facility. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from any Covered Activities. Since the entire site (collectively, the Project Area) contains suitable habitat, authorized take of the Covered Species is expected to occur across the entire Project Area.

The Project is expected to cause the permanent loss of 50.31 acres of habitat for the Covered Species, Long-term habitat modification of 451.40 acres of habitat for the Covered Species, and temporary loss of 12.73 acres of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include stress resulting from noise and vibrations from tunneling and capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, and increased competition for food and space.

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, aircraft (e.g. drones) ingress and egress, staging and parking, and noise and vibration generating activities that may/will cause take.

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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 Environmental Impact Report (SCH No: 2017092042) certified by the Sacramento Municipal Utility District (SMUD) on October 18, 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. 1600-2018-0241-R2) 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 official Biological Opinion (official Biological Opinion No.2017-F-0044) 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.

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

6.2.1. Designated Capture and Handling Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a Designated Capture and Handling Biologist (Capture Biologist) responsible for Covered Species Encounters as defined in Condition of Approval 8.9 at least 30 days before starting Covered Activities. Permittee shall ensure that the Capture Biologist is knowledgeable and experienced in the biology, has the valid handling authorizations for the Covered Species, and is experienced in the natural history of the Covered Species. The Capture 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 Capture Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Capture Biologist must be changed.

6.2.2. Capture Biologist Role. For the purposes of this ITP, the approved Capture Biologist may fulfil any role of the Designated Biologist including monitoring, reporting, or other requirements of this ITP.

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 annually for long-term or permanent employees and include training for any personnel performing maintenance on completed portions of the project.

- 6.5. Project Monitoring Notebook. The Designated Biologist shall maintain a Project-monitoring notebook on-site throughout the construction and maintenance periods, 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 Project-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 only use water from clean, potable sources and 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, 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 stakes and flags until the completion of Covered Activities and shall maintain fencing through the life of the project.
- 6.10. Delineation of Habitat. Permittee shall clearly delineate preserved 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 created access 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 unless otherwise needed for a Covered Activity outside the road, staging, or parking area boundary. 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 temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

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.
- 7.3.1. A Designated Biologist must be present to oversee any ground-disturbing activities. Activities may occur simultaneously throughout the Project area, but each activity must have an individual Designated Biologist.
- 7.3.2. Preventative Maintenance and other non-ground-disturbing activities are not subject to Condition of Approval 7.3. and 7.3.1; however, a Designated Biologist shall be available through the term of this ITP.
- 7.4. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is the R2 CESA Program at R2CESA@wildlife.ca.gov and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of

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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 Monthly 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) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 7.6. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.7. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 7.8. 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

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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 916-358-1340. 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 (2) 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. Vehicle Speed Limit. The Permittee, Designated Biologist and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 15 miles per hour when traveling through the Project area.
- 8.2. Dry Season Work Restriction. During the Dry Season of May 1 to October 31 of each year until the expiration of this ITP, Permittee shall limit Covered Activities to periods of low rainfall (i.e. less than 0.25 inches per 24-hour period). Covered Activities may resume 24 hours after the rain ceases, when there is less than 40 percent chance of rain forecast by the National Weather Service, and when humidity is below 75 percent. Both rainfall and humidity records shall be kept onsite and subject to inspection.
- 8.3. Wet Season Work Restriction. During the Wet Season of November 1 to April 30 of each year until the expiration of this ITP, Permittee shall limit Covered Activities to periods of dry weather (i.e. less than 40 percent chance of rain forecast by the National Weather Service). Covered Activities may resume 24 hours after the rain ceases, when there is less than 40 percent chance of rain in the 24-hour forecast, and when humidity is below 75 percent. Both rainfall and humidity records shall be kept onsite and subject to inspection.
 - 8.3.1. Covered Activities and vehicle travel during the Wet Season shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible.
 - 8.3.2. Permittee shall obtain written approval from CDFW prior to work during rain events or non-daylight hours. Permittee shall provide a written request to CDFW

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outlining the extent of activities and avoidance or minimization measures specific to the request (i.e. monitoring, surveys, etc.).

8.3.2.1. Written approval from CDFW is not required for project components requiring immediate attention (e.g. repairs, revegetation, erosion control) provided that avoidance or minimization measures set forth in this ITP are complied with and biological monitoring is conducted by the Designated Biologist for any ground-disturbing activities (e.g. rip rap installation). Written confirmation of work purpose and completion shall be submitted to CDFW within two (2) calendar days of the work.

8.4. Environmental Sensitive Areas. Permittee shall establish Environmentally Sensitive Areas (ESAs) in the Project Area to minimize the disturbance of Covered species habitat as necessary from Covered Activities. Permittee shall employ the least impactful method to identify sensitive areas and shall submit an ESA Plan (Plan) for CDFW review and approval prior to the initiation of Covered Activities. At the discretion of the Designated Biologist, areas within 820 feet of a breeding pond shall be designated ESAs. The Designated Biologist shall identify and flag all potential small mammal burrows and aquatic resources (i.e. wetlands and non-wetland waters as shown in Figure 1) within the Project Area as ESAs. Permittee shall minimize disturbance to ESAs during all phases of the Project. Permittee shall avoid ESAs when siting all staging areas, spoils disposal areas, and borrow pits. Permittee shall not use plastic mono-filament netting on the Project site for ESA fencing, erosion control, or any other purpose to avoid entanglement of Covered Species. The Designated Biologist shall inspect the ESA before the start of each workday and the Permittee shall maintain the ESA until the completion of the Project. Permittee shall remove all ESA material upon completion of the Project. Permittee shall ensure ESAs are clearly visible and recognizable to construction personnel.

8.5. Daily Construction Schedule. If Covered Activities must be implemented during the breeding and dispersal season (after October 15 and before July 31), Covered Activities will not start until 30 minutes after sunrise and must be complete 30 minutes prior to sunset.

8.6. Covered Species Pre-construction Surveys. The Designated Biologist shall conduct a survey of the Project site within the 200-foot boundary, including access roads. The survey shall cover all suitable Covered Species habitat features including all burrows and beneath woody debris. If a Covered Species is found within the construction site, access roads, or the 200-foot boundary, the Designated Biologist shall delay installation of the exclusion barrier until the Designated Biologist relocates the Covered Species out of the Project Area and in accordance with Condition 8.10 below.

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- 8.7. Covered Species Exclusion Fencing. Since Covered Activities must be implemented during the breeding and dispersal season (after October 15 and before July 31), Permittee shall install exclusion fencing around the Project footprint before October 15. Temporary high-visibility construction fencing will be installed along the edge of work areas, and exclusion fencing will be installed immediately outside of the temporary high-visibility construction fencing to exclude the Covered Species from entering the construction area or becoming entangled in the construction fencing. Exclusion fencing will be at least 3-feet tall and be buried at least 6 inches below the ground to prevent the Covered Species from going under the fencing. Refuge opportunities shall be provided at various locations along the fence, as outlined in Condition of Approval 8.10. Fencing will remain in place until all Covered Activities within the area are complete. No Covered Activities will occur outside the delineated project footprint. The Designated Biologist must inspect the exclusion fencing and project site every morning before 7:00 a.m. for integrity and for any entrapped Covered Species. If a Covered Species is encountered, the Permittee shall adhere to Condition of Approval 8.9.
- 8.8. Covered Species Checks. Before the start of work each morning, the Designated Biologist shall check for the Covered Species individuals under all vehicles, equipment, materials, or otherwise suitable locations for the Covered Species to hide. Workers shall inspect under vehicles and equipment for the Covered Species before the vehicles and equipment are moved. If the Covered Species is present, the worker shall notify the Designated Biologist. All ruts and holes near root structures, foundations, abutments, etc., shall be inspected for the Covered Species prior to and during excavation or removal. If the Covered Species is discovered by the Designated Biologist or anyone else, the Capture Biologist shall move the individual as required by Condition of Approval 8.10.
- 8.9. Covered Species Encounter Protocol. If a Covered Species is encountered Covered Activities will be suspended within a 100-foot radius of the animal until the animal is relocated (as described in the Condition of Approval 8.10) by the Capture Biologist. If the animal is handled, a report will be submitted, including date(s), location(s), habitat description, and any corrective measures taken to protect the Covered Species, within two (2) calendar days to CDFW. The Designated Biologist will report any take of the Covered Species to CDFW immediately. Any worker who inadvertently injures or kills a Covered Species or who finds dead, injured, or entrapped Covered Species shall immediately report the incident to the Designated Biologist.
- 8.10. Covered Species Mortality Reduction and Relocation Plan. Permittee shall prepare a Covered Species Mortality Reduction and Relocation Plan (Relocation Plan) for Covered Activities. The Relocation Plan shall include the name(s) of the Capture Biologist who will relocate the Covered Species; pre-construction habitat assessment

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methodology; measures to minimize impacts to the Covered Species; identification of refuge areas along the exclusion fencing, capture, handling, and relocation methods; a map and description of the relocation area(s) for captured Covered Species, including relative location, quality of habitat, non-native species or the potential for Covered Species-barred tiger salamander hybrids to be present, identified upland burrows determined to be suitable for Covered Species placement, distance to aquatic habitat, and potential barriers for movement; written permission from the landowner to use their land as a relocation site; and identification of a wildlife rehabilitation center or veterinary facility that routinely evaluates or treats amphibians. Permittee shall submit the Relocation Plan to CDFW for written approval at least 30 days prior to the beginning of any Covered Activities, including preconstruction surveys. If Covered Species is found within a construction site or 200 feet beyond the construction site (200-foot boundary), Project personnel shall notify the Designated Biologist immediately. If Covered Species is encountered within a construction site, it is directly threatened by Covered Activities, and it is unable to move to a safe area on its own, the Capture Biologist shall relocate Covered Species to a safe area in accordance with the Relocation Plan. Otherwise, Covered Species may only be captured and handled by the Capture Biologist. The Permittee or Designated Representative shall notify CDFW within 24 hours of each time Covered Species is relocated. Notification to CDFW shall be via telephone or email, followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident.

- 8.11. Covered Species Injury or Death. The Permittee shall immediately notify the Designated Biologist if a Covered Species is injured or killed 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 shall immediately take the injured Covered Species to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility in the Plan described in Condition of Approval 8.10. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Designated Biologist shall provide initial notification to CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is R2CESA@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured, the name of the facility where the animal was taken, and reference ITP# 2081-2018-057-02. 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.

If the Covered Species is found recently deceased, the carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date,

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GPS location, circumstances surrounding death (if known), and ITP tracking number 2081-2018-057-02. Specimens shall be delivered to the CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road Suite D, Rancho Cordova, CA 95670 within two (2) calendar days of the discovery.

- 8.12. Avoid Covered Species Entrapment. All excavated locations, steep-walled holes, or trenches more than 6 inches deep will be provided with one or more escape ramps constructed of earth fill or wooden planks at the end of each workday or 30 minutes prior to sunset, whichever occurs first. All steep-walled holes or trenches will be inspected by the Designated Biologist each morning to ensure that no wildlife has become entrapped. All construction pipes, culverts, similar structures, construction equipment, and construction debris left overnight will be inspected for Covered Species by the Designated Biologist prior to being moved. If a Covered Species is encountered, refer to Condition of Approval 8.8.
- 8.13. Erosion Control Materials. If erosion control is implemented within, non-entangling erosion control material will be used to reduce the potential for entrapment. Tightly woven fiber netting (mesh size less than 0.25 inch) or similar material will be used to ensure the Covered Species is not trapped (no monofilament). Coconut coir matting and fiber rolls with burlap are examples of acceptable erosion control materials. This limitation will be communicated to the contractor through use of special provisions included in the bid solicitation package.
- 8.14. Inspection of Refuge Habitat. All potential refuge features (e.g. debris piles), created as a result of the Project shall be inspected by the Designated Biologist for the Covered Species prior to removal. The Designated Biologist shall inspect the debris piles for the Covered Species as the debris is being loaded to trucks.
- 8.15. Soil Stockpiles. Permittee shall place soil stockpiles where soil will not pass into potential Covered Species breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 *et seq.* Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.
- 8.16. Construction Timing. To the extent feasible, the Permittee shall prioritize Covered Activities within 820-feet of a potential breeding site (Figure 1) prior to the metamorph dispersal period starting May 1, 2020.
- 8.17. Timing of Maintenance Activities. Covered Activities including Module Washing and Vegetation Control (i.e. mowing) shall occur during the Dry Season and no later than September 30 of a given year, unless otherwise approved by CDFW in writing.

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8.18. Module Washing Methods. Permittee shall only use water from clean, potable sources in order to minimize spread of invasive species and minimize potential for spread of disease. Permittee shall conduct module washing in a manner that does not inundate areas around burrows and not more than once per season, unless approved by CDFW in writing.

8.19. Vegetation Control Methods. Permittee shall set mower blade heights to 6-inches or greater, unless otherwise approved by CDFW in writing.

8.20. Curbs and Edges. As a part of road construction, the Permittee shall not install curbs or other barriers to Covered Species movement. To the extent feasible, inverter pads and other concrete foundations shall match existing grade or shall not have a vertical grade larger than 3-inches.

8.21. Rodent Control. At no time during the life of the Project shall rodenticides or other poisons used in the control of burrowing animals be used by Permittee in the Project Area or within mitigation lands.

9. Habitat Management Land Acquisition:

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

To meet this requirement, the Permittee shall either secure or purchase 852.46 acres of Covered Species credits from a CDFW-approved mitigation bank, conservation bank, or the South Sacramento Habitat Conservation Plan (Condition of Approval 9.3) AND shall provide for both the permanent protection and management of 214 acres of Habitat Management (HM) lands pursuant to Condition of Approval 9.4 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.5 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

9.1. Cost Estimates. CDFW has estimated the cost of compensatory habitat for Phase 1 as follows:

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9.1.1. Secure or purchase of 785 acres of Covered Species credits from a CDFW-approved mitigation bank, conservation bank, or the South Sacramento Habitat Conservation Plan estimated at **\$11,775,000**.

9.2. Cost Estimates. CDFW has estimated the cost of compensatory habitat for Phase 2 as follows:

9.2.1. Secure or purchase of 67.46 acres of Covered Species credits from a CDFW-approved mitigation bank, conservation bank, or the South Sacramento Habitat Conservation Plan estimated at **\$1,011,900**;

9.2.2. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$0/acre for 214 acres: **\$0**. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;

9.2.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.4.5 below, estimated at **\$35,000**;

9.2.4. Interim management period funding as described in Condition of Approval 9.4.6 below, estimated at **\$0**;

9.2.5. Long-term management funding as described in Condition of Approval 9.5 below, estimated **\$475,000**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management. 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 is included in this estimate.

9.3. Covered Species Credits. Permittee shall secure or purchase 852.46 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below.

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

9.4.1. 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

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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);

- 9.4.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 9.4.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2). 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;
- 9.4.4. 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.
- 9.4.5. 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

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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;

9.4.6. 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, draining ponds, 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.

9.5. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.4, 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 9.5.5. 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

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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.

9.5.1. 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).;

9.5.2. 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) 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.

9.5.2.1. 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.

9.5.2.2. 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:

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9.5.2.2.1. 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.

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

9.5.2.2.3. 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.

9.5.3. 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.

9.6. 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.

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 **\$13,296,900**. This amount is based on the cost estimates identified in Conditions of Approval 9.1 and 9.2 above.

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

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

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

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

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

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

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

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

Amendment:

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

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Stop-Work Order:

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

Compliance with Other Laws:

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

Notices:

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

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2018-057-02) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Kevin Thomas, Regional Manager
c/o CESA Desk
California Department of Fish and Wildlife
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
Telephone (916) 358-2930

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Fax (916) 358-2912)

and a copy to:

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

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

Region 2, CESA Desk
California Department of Fish and Wildlife
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
Telephone (916) 358-2930
Fax (916) 358-2912

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, SMUD. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Rancho Seco Solar II Project EIR, (SCH No: 2017092042) dated October 18, 2018, that SMUD certified for the Rancho Seco Solar II Project. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

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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, the results of the Rancho Seco Solar II EIR, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 1026.22 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this

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ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and

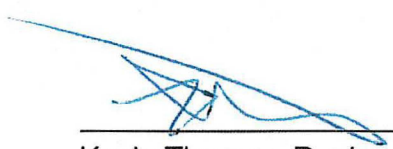
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on 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	Map of Project
FIGURE 2	Project Phasing
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2, 2A, 2B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form; Lands Instructions
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 6/26/2019


Kevin Thomas, Regional Manager
NORTH CENTRAL REGION

ACKNOWLEDGMENT

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

By: 

Date: 8/6/2019

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Printed Name: Joe Jordan Title: Vice President

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