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HABITAT CONSERVATION
PLANNING BRANCH

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

California Endangered Species Act
Incidental Take Permit No. 2081-2016-025-04

**YOSEMITE LAKE ESTATES DEVELOPMENT AND
YOSEMITE LAKE CONSERVATION AREA**

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/Applicant: 5Gs Corporation
Principal Officer: Michael Gallo
Contact Person: Michael Gallo; Phone: (209) 394-1188;
Fax: (209) 394-4988
Mailing Address: Post Office Box 775
Atwater, California 95301

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, 2030**.

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".])

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

Project Location:

The Yosemite Lake Estates Development and Yosemite Lake Conservation Area (Project) is located on a 765.4-acre property owned by the 5Gs Corporation, just west of Yosemite Lake in eastern Merced County, approximately 3 miles northeast of the City of Merced (Figures 1 and 2). The property is bisected by the Merced Irrigation District (MID) Main Canal, which flows into Yosemite Lake. The proposed Project consists of the Yosemite Lake Estates Development (Development Project) located west of the MID Main Canal, and wetland and endangered species mitigation lands located within the proposed Yosemite Lake Conservation Area (YLCA) on the east side of the MID Main Canal (Figure 2).

Project Description:

Yosemite Lake Estates Development Project

The Development Project is a master planned residential community on 368.52 acres west of the MID Main Canal, of which 349.43 acres will be developed and 15.6 acres will be preserved within the Fahrens Creek riparian corridor and managed as private open space. The Development Project will include 684 “primary” residential lots (5,000 to 7,500 square feet), 704 “active adult” lots oriented toward retirees, one “estate” lot, and associated appurtenant development (Figure 3). Other development features include a wastewater treatment plant, parks and open space areas, a community center, and a collector roadway system. Heavy earthmoving equipment will be used, such as bulldozers, graders, backhoes, front end loaders, dump trucks, and trenching machines.

Wetland Restoration at YLCA

The Permittee is proposing to mitigate for the Development Project on the 397.5-acre YLCA, also owned by the Permittee and located east of the MID Main Canal, and use the remainder of the property as wetland mitigation for the University of California (UC), Merced. Condition of Approval 9, Table A provides a summary breakdown of the proposed habitat mitigation acreages by community type for the proposed Project as well as the mitigation acreage being utilized by UC Merced. The following ground-disturbing activities proposed on the YLCA include:

- Enhancement of 20 acres of wetlands associated with mitigation required by the Army Corps of Engineers for the Development Project that contain occupied habitat for vernal pool fairy shrimp (*Branchinecta lynchi*), and provide suitable habitat for vernal pool tadpole shrimp (*Lepidurus packardii*) and California tiger salamander (*Ambystoma californiense*);
- Rehabilitation of three existing lagoon/marsh basins, encompassing 10.8 acres along the east side of the MID Main Canal levee by modifying their current hydrological regimes. Hydrological modification of the three lagoons will convert these features into

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vernal marsh habitats suitable for breeding by California tiger salamander and also suitable for vernal pool crustaceans. The goal will be to establish shallower, shorter hydroperiod marshes. Rehabilitation to create vernal marshes will entail levee repairs and retro-fitting each culvert through the MID Main Canal levee with either flashboard risers or adjustable standpipes. The rehabilitation will prevent canal waters from flooding the basins while allowing a more natural, rainfall dependent, seasonal hydrology to re-establish in the basins. Rehabilitation of artificially flooded marsh habitat to a more natural hydrological regime will provide suitable habitat for vernal pool fairy shrimp, vernal pool tadpole shrimp, and California tiger salamander. Construction equipment for the vernal marsh re-establishment and rehabilitation activities described above is similar to that used for vernal pools and will include small bulldozers, bucket loaders, tractor with box scraper, back-hoe, excavator, fuel truck, water truck, ATV/UTVs with low tire pressure, and a drag harrow and rake.

- Re-establishment of 5.85 acres of vernal pool wetlands that provide suitable habitat for vernal pool fairy shrimp, vernal pool tadpole shrimp, and other rare species, including 3.0 acres of habitat targeted to provide California tiger salamander breeding habitat. The size ranges and patterns of re-established vernal pools will match the range of sizes and patterns observed in the existing pools on the YLCA and adjacent lands. The re-established pools will include approximately 3.0 acres of deep vernal pools designed as suitable California tiger salamander breeding habitat. Breeding pools created on the YLCA site will be a minimum of 24 inches deep to ensure that there are 6 inches of water remaining in the pools at the end of the breeding season. At least four California tiger salamander breeding pools will ultimately be created and will be distributed throughout the YLCA in each soil unit. In addition, the YLCA's apparent historic playa pool will be rehabilitated by restoring the topography that existed prior to agricultural disturbance. Salvaged top soil and harvested inoculant will be spread and smoothed within each re-established pool. After surveys to ensure the absence of special-status species and noxious weeds, existing topsoil (the top 3 to 4 inches) from donor wetland sites within the Development Project, located west of the MID Main Canal, will be scraped/collected and stockpiled separately for later placement within the re-established wetlands. Inoculant will also be lightly raked by hand and vacuumed using a wet/dry shop vacuum. No heavy equipment will be used for such work. Within each donor pool, no more than 10 percent of the topsoil will be collected. Additionally, commercial seed grown from local stock (i.e., collected from donor plants in the Southern Sierra Foothills Vernal Pool Region) will be procured and added to the re-established pools, as needed. The inoculant and seed will be broadcast over the newly prepared surface of the re-established pools, raked into the top soil layer, and then rolled with a sod roller (but not compacted) to ensure good seed and soil contact. The adjacent grasslands that are disturbed by construction work will be seeded with appropriate erosion control seed mix containing native species. Construction equipment for the vernal-pool re-establishment and rehabilitation activities described

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will include small bulldozers, bucket loads, tractor with box scraper, back-hoe, excavator, fuel truck, water truck, ATV/UTV's with low pressure and a drag harrow and rake.

In addition to the mitigation actions for the Development Project, an additional 25.15 acres of wetlands has been re-established on the YLCA for UC Merced. Incidental take of CESA listed species (California tiger salamander) during construction of these wetlands and the subsequent establishment period is authorized under a separate Incidental Take Permit (Incidental Take Permit No. 2081-2009-010-04).

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:

The Project-related activities which are expected to result in incidental take of individuals of the Covered Species include: grading; scraping; ground- and vegetation clearing and grubbing; tree removal; excavating; trenching; stockpiling; backfilling; compacting; paving; drilling; construction of roads and bridge, underground utilities, wastewater and stormwater collection systems; concrete washout; materials and equipment transport and laydown; equipment staging; the operation of heavy equipment for moving and delivering materials; and development activities related to Project build out and wetland creation and enhancement activities (Covered Activities). The areas where authorized take of the Covered Species could occur includes the entire Development Project and YLCA wetland sites, excluding the 25.15 acres of wetlands creation and enhancement for the UC Merced Project (collectively, the Project Area).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as: equipment strikes during demolition/construction and hauling of materials; collapse or excavation of occupied burrows that results in crushing or suffocation of underground individuals during cut/fill, grading, and compaction; entombment of individuals from deposition of stockpiled material or spoils over occupied burrows and during vegetation, top soil, or soil compaction, grading activities, and development of expanded roadbed; entrapment and burial within uncovered excavations;

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

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crushing by equipment; and vehicle strikes due to increased Project-related traffic. 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 the capture or entrapment of holes or trenches, excavation or burrow systems, entrapment within barrier fencing constructed around the Project Area, and during capture and relocation of Covered Species out of harm's way as required by this ITP.

The Covered Activities are expected to develop 324.43 of uplands and 9.4 acres of wetlands. An additional 15.6 acres of will be considered "isolated" by the resulting development. Of the upland acres, 155.23 acres are irrigated agriculture, 51.33 acres are grasslands, and 117.87 acres are managed pasture. Managed pasture affords marginal habitat value because it is disked and/or irrigated so burrows are scarce and this presents limited opportunities for the Covered Species to use the area as refugia. Covered Species may disperse across the managed pasture, but the managed pasture is bordered by a golf course on the west and rural development on the south. The managed pasture is bordered by the MID Main Canal on the east, which can sometimes be a barrier for the Covered Species. Although individual Covered Species may disperse across the irrigated agriculture during highly productive years, the irrigated agriculture provides little to no breeding habitat or refugia. Covered Activities will also result in the conversion of 5.85 acres of Covered Species upland habitat features to vernal pools. At least 3 acres of these vernal pools will be suitable Covered Species habitat that may improve upland habitat usage because of the nearby new breeding habitat. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from tunneling and capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, increased vulnerability to predation, and behavior disruption from light and glare.

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.

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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 Environmental Impact Report (EIR) (SCH No.: 1999011011) certified by the County of Merced Planning Department on November 16, 2004, 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. 1600-2016-0071-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 Formal Consultation on the Yosemite Lakes Project, Merced County, California (Biological Opinion 81420-2008-F-1750) 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,

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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 in writing if the Designated Biologist must be changed. The Designated Biologist(s) may be assisted by approved biologists 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.

- 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, 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, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP,

among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

- 6.12. 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 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.

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- 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 once per week 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 no later than the 5th of every third month after ITP issuance 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 to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Office and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Office email is R4CESA@wildlife.ca.gov and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 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) 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. Wetland Development Plan. The Permittee shall prepare and submit to CDFW the Plan for review and written approval prior to starting any vernal pool and wetland creation activities on the Habitat Management (HM) lands.
- 7.7. Covered Species Mortality Reduction and Relocation Plan. The Designated Biologist(s) shall prepare a Covered Species 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; 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 Project Area shall not proceed until the Covered Species Mortality Reduction and Relocation Plan is approved in writing by CDFW.
- 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:

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- 8.1. Pre-Activity Clearance Surveys. The Designated Biologist shall perform Pre-Activity Clearance Surveys for the Covered Species 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 the Covered Species are found, the Designated Biologist shall capture and relocate the Covered Species as per the CDFW-approved Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 7.7. The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities.
- 8.2. Delineation of Ingress and Egress Routes. All access roads shall be flagged in the field from the paved road and vehicle operation shall be limited by the Permittee to these designated ingress and egress routes.
- 8.3. Flag Burrows. The Designated Biologist shall flag all potential small mammal burrows identified within the Project Area during the Pre-Activity Clearance Survey (Condition of Approval 8.1) and within 0.25 mile of a Covered Species potential breeding site to alert work crews to their presence. Where feasible, an avoidance buffer of 50 feet or greater around small mammal burrows shall be maintained regardless if the burrow is in the Project Area or solely within the Project Area's 50-foot buffer zone. Any small mammal burrows within 0.25 mile of potential breeding habitat that cannot be avoided by a 50-foot no-disturbance buffer shall be fully excavated as required by Condition of Approval 8.4.

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- 8.4. Small Mammal Burrow Surveys and Excavation. Those small mammal burrows identified during the Pre-Activity Clearance (Condition of Approval 8.1) which exist within 0.25-mile of known or potential Covered Species breeding habitat and which cannot be fully avoided by at least 50 feet shall be fully excavated under the direct supervision of the Designated Biologist. The Designated Biologist(s) shall relocate any live Covered Species discovered during burrow excavation in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.7 above. Excavation shall occur no more than 14 days after the completion of the Pre-Activity Clearance Surveys as described in Condition of Approval 8.1 above.
- 8.5. Covered Species Exclusion Fencing. After the clearance survey and Covered Species mortality reduction and relocation efforts (Conditions of Approval 7.7, and 8.1) are complete, Permittee shall install temporary exclusion fencing around the perimeter of the Project Area to prevent Covered Species from migrating into the Project Area. Fencing material and design shall be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed **after** all small mammal burrows inside the Project Area are excavated under the supervision the Designated Biologist(s) in accordance with Condition of Approval 8.4 above to prevent entrapment of Covered Species within the Project Area. 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 Covered Species. The Permittee shall submit the type of fencing material and design for CDFW written approval before exclusion fencing installation. The Permittee shall also avoid small mammal burrows by 50 feet during the installation of the exclusion fencing. When small mammal burrows cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be excavated as described in Condition of Approval 8.4 above prior to commencing fence installation.
- 8.6. Exclusion Fencing Installation. The Designated Biologist shall accompany the exclusion fence construction crew to ensure that Covered Species 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 shall check the exclusion fence at least once weekly and inform Permittee of necessary maintenance or repairs. The Permittee shall install cover boards every 150 feet along the outside of the exclusion fence when the fence is installed adjacent to or within 150 feet of Covered Species habitat. Exclusion fence shall be removed immediately upon completion of Covered Activities.

- 8.7. Fieldwork Code of Practice. To ensure that the Designated Biologist 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 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.
- 8.8. Covered Species Observations. All workers shall inform the Designated Biologist if a Covered Species is seen within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until the Covered Species moves from the Project Area of its own accord or is relocated by the Designated Biologist in accordance with the CDFW-approved Covered Species Salvage and Relocation Plan specified in Condition of Approval 7.7 above.
- 8.9. Open Excavation Inspection. The Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the Designated Biologist shall oversee the covering of all excavated, trenches, holes, and sumps with less than 1:1 (45 degree) slope and greater than 2 feet deep, or other excavations with a greater than 1:1 (45 degree) slope of any depth, with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. The Designated Biologist shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Project-related activities in the vicinity and notify the Designated Biologist immediately. Project workers and the Designated Biologist shall provide the opportunity for the Covered Species to escape unimpeded out of the Project Area before allowing work to continue. Alternatively, if the Covered Species will not leave the Project Area unimpeded, the Designated Biologist shall capture and relocate the Covered Species as per the CDFW-approved Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 7.7, after receiving approval from the CDFW

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Regional Representative. If, at any time, a Covered Species is found incidentally trapped in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of the incident.

- 8.10. Rain Forecast. The Designated Biologist(s) and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area if Covered Activities within Covered Species habitat are scheduled to occur from October 15 through January 15. If a 70 percent or greater chance of rainfall is predicted within 24 hours of Project activity, the Designated Biologist(s) shall survey the Project Area before Covered Activities begin each day rain is forecast to capture and relocate any 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 for the succeeding 48 hours.
- 8.11. Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is discovered during inspection, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded out of the Project Area. Alternatively, if the Covered Species will not leave the Project Area unimpeded, the Designated Biologist shall capture and relocate the Covered Species as per the CDFW-approved Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 7.7, after receiving approval from the CDFW Regional Representative. If, at any time, a Covered Species is found in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of discovery.
- 8.12. Materials Inspection. Workers shall thoroughly inspect all construction pipe or similar material with a diameter of 1 inch or greater that are stored for one or more overnight periods for Covered Species before the material is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe or similar material, workers shall notify the Designated Biologist 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 Covered Species will not leave the Project Area unimpeded, the Designated Biologist shall capture and relocate the Covered Species as per the CDFW-approved Covered Species Salvage and Relocation Plan described in Condition of Approval 7.7, after receiving approval from the CDFW Regional Representative. If, at any time, a Covered Species is found in

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the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of discovery.

- 8.13. Night Work. All Covered Activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise except when nightwork 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.
- 8.14. Stockpiles. Permittee shall ensure that soil stockpiles are placed where soil shall not pass into potential Covered Species breeding pools; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.
- 8.15. Record of Handling and Covered Species Reporting. All Covered Species captures, relocations, and observations by the Designated Biologist 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, 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.
- 8.16. 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 that routinely evaluates and treats amphibians. Permittee shall identify the facility in the Mortality Reduction and Relocation Plan, prior to the start of Covered Activities. Permittee shall bear any 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.

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Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was taken.

- 8.17. Dry Season Work. Fill, vegetation removal, or other ground-disturbing activities within or immediately adjacent (within 250 feet) to known or potential Covered Species breeding habitat shall be confined to the dry season from June 15 to October 31.

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- 8.18. Timeframe for Wetland Development Plan Activities. Permittee shall complete all Wetland Development Plan activities at the YLCA within 24 months of the start of Covered Activities for the Development Project, as documented in the Notification Before Commencement submitted pursuant to Condition of Approval 7.1.
- 8.19. Wetland Development Notification at YLCA. The Permittee shall notify CDFW in writing when wetland restoration work begins at YLCA and notify CDFW when wetland restoration work is completed at YLCA. Wetland restoration for the Permittee shall be limited to the areas described in the Wetland Development Plan (Condition of Approval 7.6). An alternative wetland restoration area for the Permittee may be designated with written approval from CDFW. Wetland restoration work for the Project shall not occur when wetland restoration activities occur for any other project or activity at YLCA.
- 8.20. Conditions of Approval at the Wetland Development Plan Areas. Wetland Development Plan activities at the YLCA shall implement all General Provisions set forth in Condition of Approval 8.29.
- 8.21. Notification of Non-compliance at the YLCA. The Designated Representative shall immediately notify CDFW in writing if he or she determines that the Permittee is not in compliance with any Condition of Approval of this ITP at the YLCA, 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 at the YLCA to CDFW within 24 hours.
- 8.22. Compliance Monitoring at the YLCA. The Designated Biologist(s) shall be on-site daily at the YLCA when vegetation- and ground-disturbing Covered Activities occur. The Designated Biologist(s) 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,

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and that Covered Activities are only occurring in the Project Area. During initial vegetation and soil disturbance, the Designated Biologist(s) shall conduct compliance inspections continuously within the Project Area where Covered Activities are occurring. After initial vegetation and soil disturbance, the Designated Biologist(s) shall conduct compliance inspections a minimum of once per day when Covered Activities occur. The Designated Representative or Designated Biologist(s) shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, and monitoring activities required by this ITP.

- 8.23. Equipment Fueling and Maintenance at the YLCA. Mobile equipment fueling and maintenance at the YLCA shall occur at least 100 feet from existing and to-be-created breeding habitat features for the Covered Species. Permittee shall locate fixed equipment fueling and maintenance areas, either permanently or temporarily fixed, at a distance of at least 100 feet from Covered Species breeding habitat, and shall include fixed containment devices that will preclude fuel or other liquids from exiting the equipment fueling maintenance area in the event of a spill or leak. Permittee shall ensure that sufficient spill containment and cleanup equipment are present at all mobile, temporary, and permanent equipment fueling locations.
- 8.24. Staging Area at the YLCA. The temporary Staging Area at the YLCA shall be located at a distance of at least 100 feet from existing and to-be-created breeding habitat features for the Covered Species, and shall include fixed containment devices that will preclude any fuel or other liquids from exiting the Staging Area in the event of a spill or leak. Sufficient spill containment and cleanup equipment shall be present at the temporary Staging Area. Permittee shall restore the temporary Staging Area to pre-Project conditions upon the completion of vernal pool creation work.
- 8.25. Night Work at the Wetland Development Plan Areas. Permittee shall strictly prohibit all Covered Activities at night (the period between sunset and sunrise) at the YLCA.
- 8.26. Herbicide Use at the YLCA. Permittee shall prohibit the use of herbicides at the YLCA, except to spot-treat non-native invasive vegetation (as defined, described, and inventoried as invasive by the California Invasive Plant Council). Permittee shall ensure that all herbicide use (mixing, application, and clean-up) at the YLCA is done by a licensed applicator in accordance with all applicable state, federal, and local regulations. Permittee shall only apply herbicide sprays via ground application when wind speed measures less than 3 miles per hour at

the YLCA. Permittee shall ensure all herbicide sprays utilized within and adjacent to identified habitat features suitable for Covered Species contain a dye (registered for aquatic use by the California Department of Pesticide Regulation, if warranted) to prevent overspray at the YLCA.

- 8.27. Rodenticide Use at the YLCA. Permittee shall prohibit the use of rodenticides at the YLCA.
- 8.28. Vegetation Removal Methods at the YLCA. Vegetative cover at the YLCA shall be removed prior to grading in the Project Area. Where possible, hand tools (e.g., trimmer, chain saw, etc.) shall be used to trim or remove shrub vegetation, if present. All vegetation removal shall be monitored directly (e.g., directly observed) by the Designated Biologist(s) to minimize impacts to Covered Species.
- 8.29. Wetland Development Plan Activities on YLCA.
- 8.29.1. Land Grading and Contouring. Permittee shall conduct land grading and contouring only within the vernal pool creation areas identified in the CDFW-approved Plan prepared as per Condition of Approval 7.6.
- 8.29.2. YLCA Maps. Permittee shall maintain Geographic Information Systems (GIS) shapefile layers and associated maps depicting mapped areas of all Covered Activities within the YLCA. Permittee shall provide the above information to CDFW with the Quarterly Compliance Report.
- 8.29.3. Disturbed Acres. Permittee shall document the cumulatively disturbed acreages of the YLCA from Covered Activities. Permittee shall provide the above information to CDFW with the Quarterly Compliance Report.
- 8.29.4. Soil Stockpiles. Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential Covered Species breeding habitat or "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.
- 8.29.5. Inoculum Collection. Inoculum shall be collected from the Development Project site. The Permittee may propose alternative inoculum collection sites in writing to CDFW for written approval. The

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Permittee shall not collect inoculum from vernal pools where state listed (threatened, endangered, or rare) or invasive plants occur.

8.30. Specific Measures for Covered Species at the YLCA

- 8.30.1. Pre-activity Clearance Surveys. No more than 14 days prior to starting ground-disturbing Covered Activities, the Designated Biologist shall survey the Project Area in accordance with Condition of Approval 8.1 above. If any Covered Species are found, the Designated Biologist(s) shall relocate them from the Project Area in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan prepared in accordance with Condition of Approval 7.7 above. The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities within the Project Area.
- 8.30.2. Flag Burrows. Permittee shall flag and avoid potential Covered Species burrows during all Covered Activities at the YLCA to prevent the collapse of the burrow openings, the burrow system, or otherwise entombing or crushing Covered Species. If burrows cannot be avoided by a 50-foot no-disturbance buffer, then they shall be excavated in accordance with Condition of Approval 8.30.5 and any Covered Species uncovered during burrow excavation shall be captured and relocated in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan as described in Condition of Approval 7.7 above.
- 8.30.3. Dry Season Work. Permittee shall confine fill or other ground-disturbing activities on the YLCA to the dry season from June 15 to October 31.
- 8.30.4. Delineation of Ingress and Egress Routes. Permittee shall flag all access routes in advance of vehicle access and vehicle operation and shall be limited to these designated ingress and egress routes. No new roads shall be graded to access the YLCA or within the YLCA.
- 8.30.5. Small Mammal Burrow Excavation. Permittee shall fully excavate all small mammal burrows flagged per Condition of Approval 8.30.2 that cannot be avoided by a 50-foot no-disturbance buffer. The Designated Biologist(s) shall relocate any live Covered Species discovered during burrow excavation in accordance with the Covered

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Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.7 above. Excavation shall occur no more than 14 days after the completion of the Covered Species pre-construction surveys as described in Condition of Approval 8.30.1 above.

- 8.30.6. Covered Species Exclusion Fencing Installation. Permittee shall install exclusion fencing to prevent Covered Species moving into wetland enhancement, rehabilitation, and re-establishment areas **after** all small mammal burrows inside the planned fence zone are excavated under the supervision of the Designated Biologist(s) in accordance with Condition of Approval 8.30.5 above to prevent entrapment of Covered Species within the Project Area.
- 8.30.7. Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist(s) and wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Permittee shall contact the Designated Biologist(s) to determine if he or she can safely move the Covered Species out of harm's way in compliance with this ITP.
- 8.30.8. Daily Entrapment Inspections. 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 (including weekends and any other non-work days) for trapped Covered Species. Permittee shall ensure that any excavation has sides less than a 1:1 slope to prevent inadvertent entrapment of Covered Species. If at any time an excavation must have sidewalls with a 1:1 or greater slope and will be left unattended, the Permittee shall install an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the Designated Biologist(s) shall oversee the covering of the excavation with material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. The Designated Biologist shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species immediately before they are back-filled. If any worker discovers that Covered Species have become

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trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded if possible before Covered Activities continue, or the Designated Biologist(s) shall capture and relocate the Covered Species as per the Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.7 above.

- 8.30.9. Covered Species Record of Handling. All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the Covered Species; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 7.8. This information shall also be included in the Quarterly and Annual Compliance Reports.
- 8.30.10. 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 that routinely evaluates and treats amphibians. Permittee shall also comply with the provisions as described in Condition of Approval 8.16 above.
- 8.30.11. Rain Forecast. The Designated Biologist(s) and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 50 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in the Project Area. Work may continue 24 hours after the rain ceases and there is a zero percent chance of precipitation in the 72-hour forecast. If work must continue when rain is forecast, the Designated Biologist(s) shall survey the Project Area before Covered Activities resume to capture and relocate any Covered Species that are discovered during the surveys. Once the Project Area has been cleared of Covered Species and enclosed with Covered Species exclusion fencing, in accordance with Conditions of Approval 8.30.1, 8.30.2, and 8.30.5 above, may continue Covered Activities during rainfall events.

8.30.12. Fieldwork Code of Practice. Permittee shall follow the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) at all times to ensure that disease is not conveyed between work sites by the Designated Biologist(s). 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.

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 provide for both the permanent protection and management of 305 acres within the 397.55 acre YLCA as HM lands pursuant to Condition of Approval 9.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below. As part of the YLCA (see Table A for habitat features), the Permittee shall provide for both the permanent protection and management of a minimum 300 acres of grasslands that are suitable upland habitat features for the Covered Species, and create, enhance, or preserve a minimum of 5 acres of suitable Covered Species breeding habitat. The entire YLCA shall be permanently protected and managed. The YLCA is located immediately adjacent to the Cyril Smith Trust, which is under permanent conservation easement, and protected and managed breeding habitat is expected to increase the opportunity for Covered Species occurring on both the YLCA and Cyril Smith Trust land to utilize upland habitat features. Enhancing and managing features like the three existing lagoon/marsh basins located along the east side of the MID Main Canal levee to be suitable Covered Species breeding habitat increases the potential for additional Covered Species successful breeding opportunities. 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.

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Table A: Summary of Habitat Features at YLCA

Yosemite Lake Conservation Area Type	Total Conservation Area Acreage	Proposed Yosemite Lake Estates Development Mitigation	Proposed UC Merced Mitigation
Enhanced Vernal Pools/Swales	20	20	-
Preserved Grasslands	307.1	307.1	-
Re-established Vernal Pools/Swales	31	5.85	25.15
Re-habilitated Vernal Pools/Canal Marshes Converted into Deep Vernal Marshes	10.8	10.8	-
Lagoon/Migratory Water Bird Habitat	28.6	-	-
Total	397.5	343.75	25.15

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

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.2 below, estimated at \$4,000.00/acre for 305 acres: **\$1,220,000.00**. Land acquisitions 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 9.2.5 below, estimated at **\$152,735.74**;
- 9.1.3. Interim management period funding as described in Condition of Approval 9.2.5 below, estimated at **\$91,060.64**;
- 9.1.4. Long-term management funding as described in Condition of Approval 9.3 below, estimated at \$2,389.19/acre for 305 acres: **\$728,702.95**. 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,

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and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.4, estimated at **\$12,000.00**.

- 9.2. Habitat Protection. To provide for the perpetual protection and management of the HM lands, the Permittee shall:
- 9.2.1. 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);
- 9.2.2. 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;
- 9.2.3. 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;

- 9.2.4. 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.
- 9.2.5. 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;
- 9.2.6. 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.

- 9.3. 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 final management plan. 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.

- 9.3.1. 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).;

9.3.2. 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.

9.3.2.1. 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.

9.3.2.2. 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:

9.3.2.2.1. 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.

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

9.3.2.2.3. 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.

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9.3.3. 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.

9.4. 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 **\$2,204,499.33**. 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

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

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

Amendment:

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

Stop-Work Order:

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work

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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
1416 Ninth Street, Suite 1266
Sacramento, California 95814

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2016-025-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Julie A. Vance, Regional Manager
California Department of Fish and Wildlife
1234 E. Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4005
Fax (559) 243-4022

and a copy to:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
1416 Ninth Street, Suite 1266
Sacramento, California 95814

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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 E. 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, County of Merced Planning Department. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Yosemite Lake Estates General Plan Amendment Final EIR, (SCH No.: 1999011011) dated November 2004 that the County of Merced Planning Department certified for Yosemite Lake Estates General Plan Amendment on November 16, 2004. 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 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, Yosemite Lake Estates General Plan Amendment Final EIR, and the administrative record of proceedings, that

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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) 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 the protection and management in perpetuity of 397.5 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and

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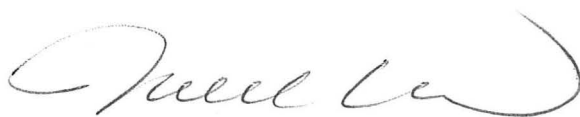
conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

Attachments:

- | | |
|-------------------|---|
| FIGURE 1 | Regional Location |
| FIGURE 2 | Project Vicinity Map |
| FIGURE 3 | Proposed Development Project and Subareas |
| 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 10/2/17



Julie A. Vance, Regional Manager
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: Michael D. Gallo Date: 11/1/19

Printed Name: Michael D. Gallo Title: CEO

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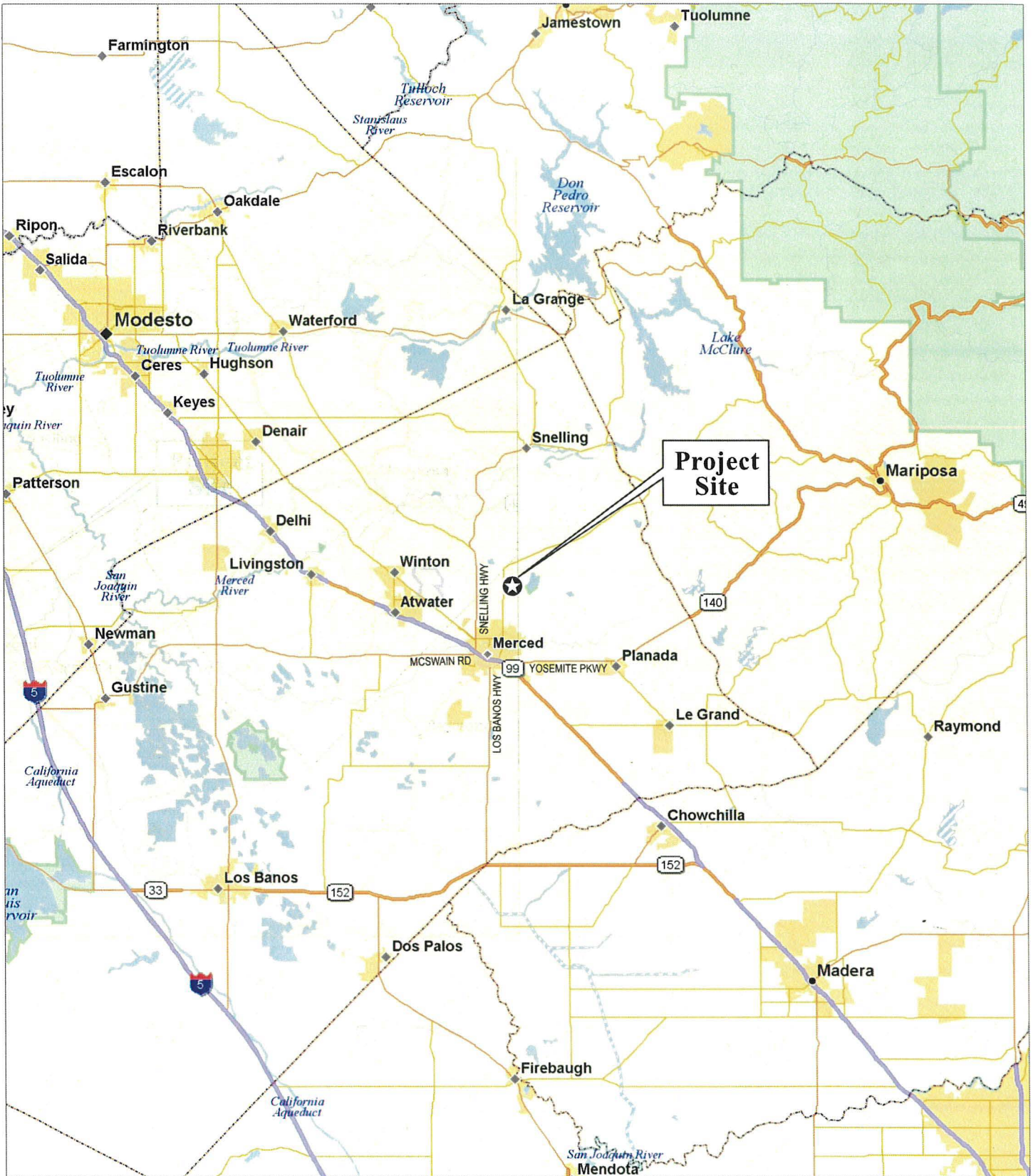
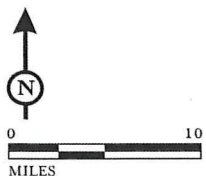


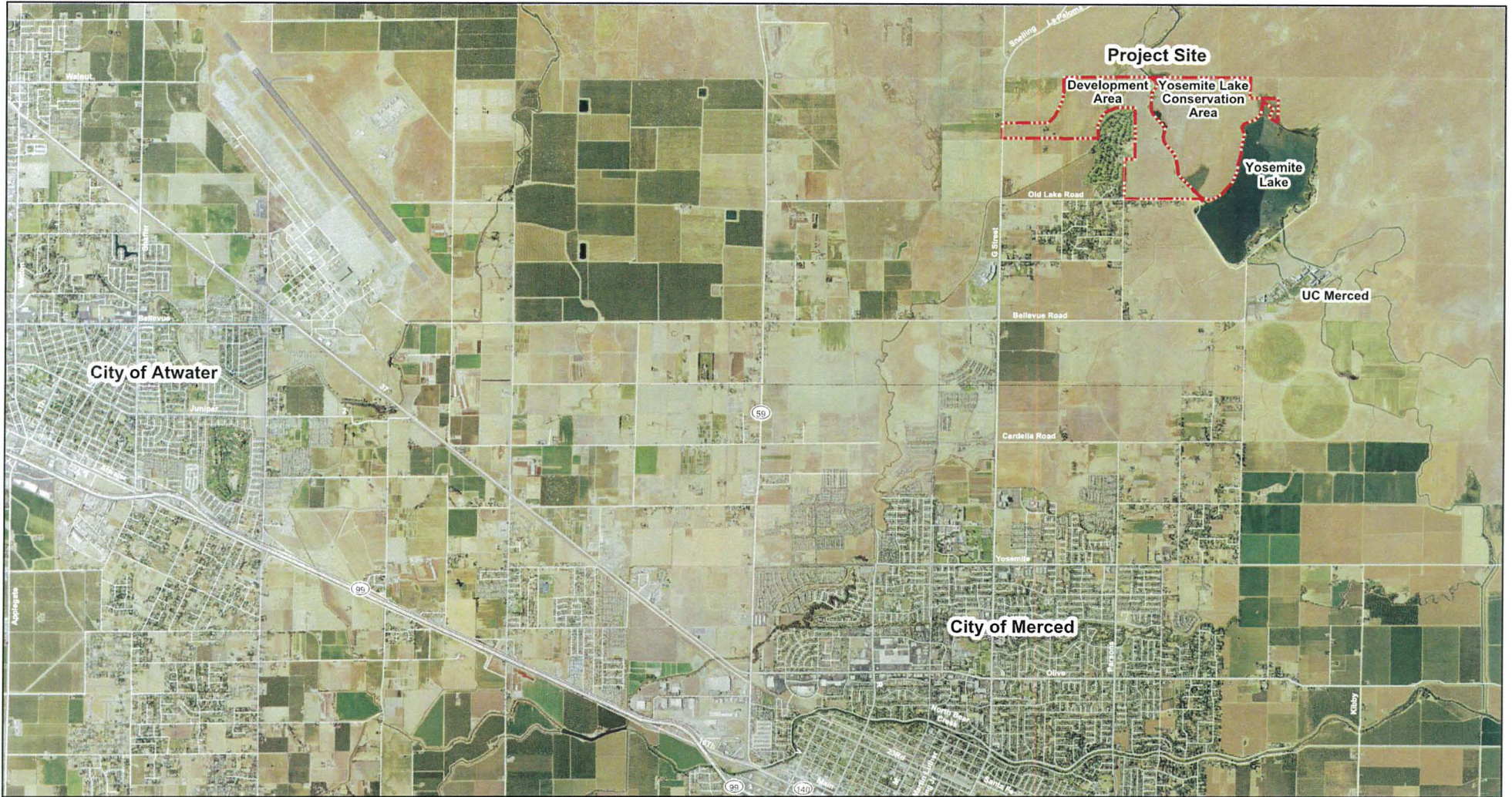
FIGURE 1

LSA



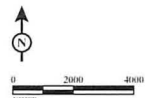
Regional Location

SOURCE: ©2006 DeLORME. STREET ATLAS USA®2006.



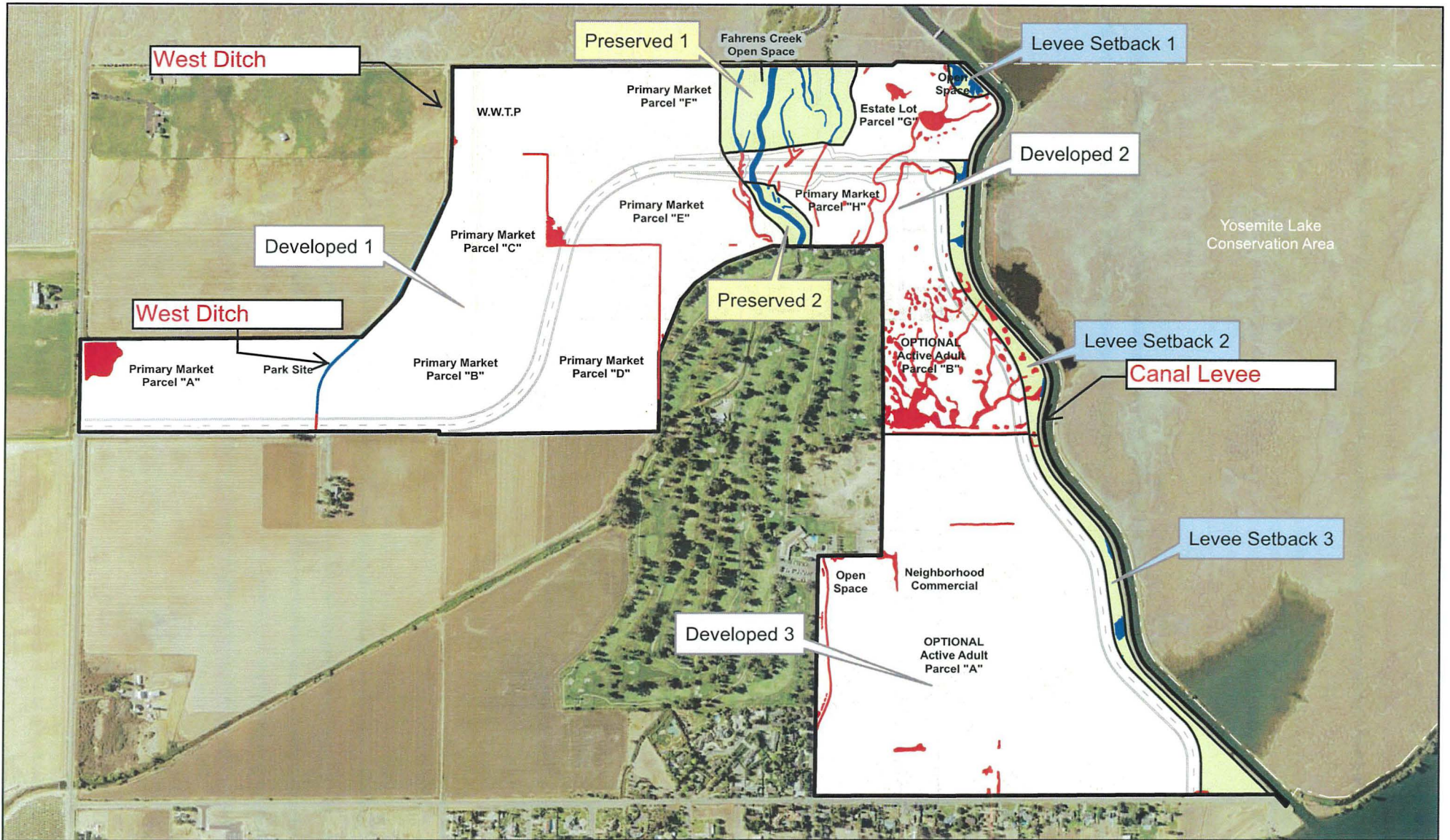
LSA

FIGURE 2



SOURCE: USDA NAIP Imagery (06/2014).
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Yosemite Lake Estates Development Project
 and Yosemite Lake Conservation Area
 Project Vicinity Map



LSA

LEGEND

- Proposed Development Area
- Proposed Preservation Area
- Avoided Wetland
- Filled Wetland



FIGURE 3

*Yosemite Lake Estates Development Project
and Yosemite Lake Conservation Area*
Proposed Development Project and Subareas

SOURCE: Mid-Valley Engineering (2012, 2013); LSA (2015); USDA NAIP (06/2015).

I:\MGL830\GIS\Maps\2081 Permit\Figure 3_Proposed Development Project and Subareas.mxd (11/4/2015)

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2016-025-04

PERMITTEE: 5Gs Corporation

**PROJECT: Yosemite Lake Estates Development and Yosemite
Lake Conservation Area**

PURPOSE OF THE MMRP

The purpose of the 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 biologists 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.	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	
5	<u>Delineation of Property Boundaries.</u> 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 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	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	<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	
7	<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	
8	<u>Wetland Development Plan</u> . The Permittee shall prepare and submit to CDFW the Plan for review and written approval prior to starting any vernal pool and wetland creation activities on the Habitat Management (HM) lands.	ITP Condition # 7.6	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	<u>Covered Species Mortality Reduction and Relocation Plan</u> . The Designated Biologist(s) shall prepare a Covered Species 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; 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 Project Area shall not proceed until the Covered Species Mortality Reduction and Relocation Plan is approved in writing by CDFW.	ITP Condition # 7.7	Before commencing ground- or vegetation-disturbing activities	Permittee	
10	<u>Pre-Activity Clearance Surveys</u> . The Designated Biologist shall perform Pre-Activity Clearance Surveys for the Covered Species 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 the Covered Species are found, the Designated Biologist shall capture and relocate the Covered Species as per the CDFW-approved Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 7.7. The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities.	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	<u>Delineation of Ingress and Egress Routes</u> . All access roads shall be flagged in the field from the paved road and vehicle operation shall be limited by the Permittee to these designated ingress and egress routes.	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
12	<u>Flag Burrows</u> . The Designated Biologist shall flag all potential small mammal burrows identified within the Project Area during the Pre-Activity Clearance Survey (Condition of Approval 8.1) and within 0.25 mile of a Covered Species potential breeding site to alert work crews to their presence. Where feasible, an avoidance buffer of 50 feet or greater around small mammal burrows shall be maintained regardless if the burrow is in the Project Area or solely within the Project Area's 50-foot buffer zone. Any small mammal burrows within 0.25 mile of potential breeding habitat that cannot be avoided by a 50-foot no-disturbance buffer shall be fully excavated as required by Condition of Approval 8.4.	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
13	<u>Small Mammal Burrow Surveys and Excavation.</u> Those small mammal burrows identified during the Pre-Activity Clearance (Condition of Approval 8.1) which exist within 0.25-mile of known or potential Covered Species breeding habitat and which cannot be fully avoided by at least 50 feet shall be fully excavated under the direct supervision of the Designated Biologist. The Designated Biologist(s) shall relocate any live Covered Species discovered during burrow excavation in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.7 above. Excavation shall occur no more than 14 days after the completion of the Pre-Activity Clearance Surveys as described in Condition of Approval 8.1 above.	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
14	<u>Covered Species Exclusion Fencing.</u> After the clearance survey and Covered Species mortality reduction and relocation efforts (Conditions of Approval 7.7, and 8.1) are complete, Permittee shall install temporary exclusion fencing around the perimeter of the Project Area to prevent Covered Species from migrating into the Project Area. Fencing material and design shall be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed after all small mammal burrows inside the Project Area are excavated under the supervision the Designated Biologist(s) in accordance with Condition of Approval 8.4 above to prevent entrapment of Covered Species within the Project Area. 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 Covered Species. The Permittee shall submit the type of fencing material and design for CDFW written approval before exclusion fencing installation. The Permittee shall also avoid small mammal burrows by 50 feet during the installation of the exclusion fencing. When small mammal burrows cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be excavated as described in Condition of Approval 8.4 above prior to commencing fence installation.	ITP Condition # 8.5	Before commencing ground- or vegetation-disturbing activities	Permittee	
15	<u>Exclusion Fencing Installation.</u> The Designated Biologist shall accompany the exclusion fence construction crew to ensure that Covered Species 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 shall check the exclusion fence at least once weekly and inform Permittee of necessary maintenance or repairs. The Permittee shall install cover boards every 150 feet along the outside of the exclusion fence when the fence is installed adjacent to or within 150 feet of Covered Species habitat. Exclusion fence shall be removed immediately upon completion of Covered Activities.	ITP Condition # 8.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
16	<u>Fieldwork Code of Practice.</u> To ensure that the Designated Biologist 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 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 # 8.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
17	<u>Timeframe for Wetland Development Plan Activities.</u> Permittee shall complete all Wetland Development Plan activities at the YLCA within 24 months of the start of Covered Activities for the Development Project, as documented in the Notification Before Commencement submitted pursuant to Condition of Approval 7.1.	ITP Condition # 8.18	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
18	<u>Vegetation Removal Methods at the YLCA.</u> Vegetative cover at the YLCA shall be removed prior to grading in the Project Area. Where possible, hand tools (e.g., trimmer, chain saw, etc.) shall be used to trim or remove shrub vegetation, if present. All vegetation removal shall be monitored directly (e.g., directly observed) by the Designated Biologist(s) to minimize impacts to Covered Species.	ITP Condition # 8.28	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
19	<u>Pre-activity Clearance Surveys.</u> No more than 14 days prior to starting ground-disturbing Covered Activities, the Designated Biologist shall survey the Project Area in accordance with Condition of Approval 8.1 above. If any Covered Species are found, the Designated Biologist(s) shall relocate them from the Project Area in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan prepared in accordance with Condition of Approval 7.7 above. The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities within the Project Area.	ITP Condition # 8.30.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
20	<u>Flagging Burrows.</u> Permittee shall flag and avoid potential Covered Species burrows during all Covered Activities at the YLCA to prevent the collapse of the burrow openings, the burrow system, or otherwise entombing or crushing Covered Species. If burrows cannot be avoided by a 50-foot no-disturbance buffer, then they shall be excavated in accordance with Condition of Approval 8.30.5 and any Covered Species uncovered during burrow excavation shall be captured and relocated in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan as described in Condition of Approval 7.7 above.	ITP Condition # 8.30.2	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
21	<u>Delineation of Ingress and Egress Routes.</u> Permittee shall flag all access routes in advance of vehicle access and vehicle operation and shall be limited to these designated ingress and egress routes. No new roads shall be graded to access the YLCA or within the YLCA.	ITP Condition # 8.30.4	Before commencing ground- or vegetation-disturbing activities	Permittee	
22	<u>Small Mammal Burrow Excavation.</u> Permittee shall fully excavate all small mammal burrows flagged per Condition of Approval 8.30.2 that cannot be avoided by a 50-foot no-disturbance buffer. The Designated Biologist(s) shall relocate any live Covered Species discovered during burrow excavation in accordance with the Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.7 above. Excavation shall occur no more than 14 days after the completion of the Covered Species pre-construction surveys as described in Condition of Approval 8.30.1 above.	ITP Condition # 8.30.5	Before commencing ground- or vegetation-disturbing activities	Permittee	
23	<u>Covered Species Exclusion Fencing Installation.</u> Permittee shall install exclusion fencing to prevent Covered Species moving into wetland enhancement, rehabilitation, and re-establishment areas <u>after</u> all small mammal burrows inside the planned fence zone are excavated under the supervision of the Designated Biologist(s) in accordance with Condition of Approval 8.30.5 above to prevent entrapment of Covered Species within the Project Area.	ITP Condition # 8.30.6	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
24	<p>CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.</p> <p>To meet this requirement, the Permittee shall provide for both the permanent protection and management of 305 acres within the 397.55 acre YLCA as HM lands pursuant to Condition of Approval 9.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below. As part of the YLCA (see Table A for habitat features), the Permittee shall provide for both the permanent protection and management of a minimum 300 acres of grasslands that are suitable upland habitat features for the Covered Species, and create, enhance, or preserve a minimum of 5 acres of suitable Covered Species breeding habitat. The entire YLCA shall be permanently protected and managed. The YLCA is located immediately adjacent to the Cyril Smith Trust, which is under permanent conservation easement, and protected and managed breeding habitat is expected to increase the opportunity for Covered Species occurring on both the YLCA and Cyril Smith Trust land to utilize upland habitat features. Enhancing and managing features like the three existing lagoon/marsh basins located along the east side of the MID Main Canal levee to be suitable Covered Species breeding habitat increases the potential for additional Covered Species successful breeding opportunities. 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 the ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
25	<p><u>Cost Estimates.</u> CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:</p> <ul style="list-style-type: none"> i) Land acquisition costs for HM lands identified in Condition of Approval 9.2 below, estimated at \$4,000.00/acre for 305 acres: \$1,220,000.00. Land acquisitions 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 9.2.5 below, estimated at \$152,735.74; iii) Interim management period funding as described in Condition of Approval 9.2.5 below, estimated at \$91,060.64; iv) Long-term management funding as described in Condition of Approval 9.3 below, estimated at \$2,389.19/acre for 305 acres: \$728,702.95. 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 9.4, estimated at \$12,000.00. 	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	
26	<p><u>Fee Title/Conservation Easement.</u> To provide for the 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).</p>	ITP Condition #9.2.1	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
27	<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 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;	ITP Condition #9.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
28	<u>HM Lands Documentation</u> . 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;	ITP Condition #9.2.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
29	<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 #9.2.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
30	<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 #9.2.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
31	<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 #9.2.6	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
32	<p><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 final management plan. 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.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition #9.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
33	<p><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).;</p>	ITP Conditions #9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
34	<p><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.</p>	ITP Conditions #9.3.2	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
35	<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 #9.3.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
36	<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: <ul style="list-style-type: none"> o <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. o <u>Three Years Delayed Spending.</u> The endowment shall be established assuming spending will not occur for the first three years after full funding. o <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 #9.3.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
37	<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.	ITP Conditions #9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
38	<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.	ITP Conditions #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
39	<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> <ul style="list-style-type: none"> ○ <u>Security Amount.</u> The Security shall be in the amount of \$2,204,499.33. 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 4) 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 5) 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"> • Written documentation of the acquisition of the HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of the ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
40	<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 once per week during periods of inactivity and after clearing, grubbing, and grading are completed.	ITP Condition # 7.3	Entire Project	Permittee	
41	<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 no later than the 5 th of every third month after ITP issuance 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 to the CDFW offices listed in the Notices section of the ITP and via e-mail to CDFW's Regional Office and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Office email is R4CESA@wildlife.ca.gov and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.4	Entire Project	Permittee	
42	<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) 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.	ITP Condition # 7.5	Entire Project	Permittee	
43	<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	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
44	<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	
45	<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	
46	<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	Entire Project	Permittee	
47	<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	
48	<u>Project Access.</u> Project-related personnel shall access the Project Area using existing routes, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.11	Entire Project	Permittee	
49	<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	
50	<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	
51	<u>CDFW Access.</u> Permittee shall provide CDFW staff with reasonable access to the Project, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 6.14	Entire Project	Permittee	
52	<u>Refuse Removal.</u> Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.15	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
53	<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	
54	<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	
55	<u>Covered Species Observations.</u> All workers shall inform the Designated Biologist if a Covered Species is seen within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until the Covered Species moves from the Project Area of its own accord or is relocated by the Designated Biologist in accordance with the CDFW-approved Covered Species Salvage and Relocation Plan specified in Condition of Approval 7.7 above.	ITP Condition # 8.8	Entire Project	Permittee	
56	<u>Open Excavation Inspection.</u> The Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the Designated Biologist shall oversee the covering of all excavated, trenches, holes, and sumps with less than 1:1 (45 degree) slope and greater than 2 feet deep, or other excavations with a greater than 1:1 (45 degree) slope of any depth, with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. The Designated Biologist shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Project-related activities in the vicinity and notify the Designated Biologist immediately. Project workers and the Designated Biologist shall provide the opportunity for the Covered Species to escape unimpeded out of the Project Area before allowing work to continue. Alternatively, if the Covered Species will not leave the Project Area unimpeded, the Designated Biologist shall capture and relocate the Covered Species as per the CDFW-approved Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 7.7, after receiving approval from the CDFW Regional Representative. If, at any time, a Covered Species is found incidentally trapped in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of the incident.	ITP Condition # 8.9	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
57	<u>Rain Forecast.</u> The Designated Biologist(s) and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area if Covered Activities within Covered Species habitat are scheduled to occur from October 15 through January 15. If a 70 percent or greater chance of rainfall is predicted within 24 hours of Project activity, the Designated Biologist(s) shall survey the Project Area before Covered Activities begin each day rain is forecast to capture and relocate any 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 for the succeeding 48 hours.	ITP Condition # 8.10	Entire Project	Permittee	
58	<u>Equipment Inspection.</u> Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is discovered during inspection, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded out of the Project Area. Alternatively, if the Covered Species will not leave the Project Area unimpeded, the Designated Biologist shall capture and relocate the Covered Species as per the CDFW-approved Covered Species Mortality Reduction and Relocation Plan described in Condition of Approval 7.7, after receiving approval from the CDFW Regional Representative. If, at any time, a Covered Species is found in the Project Area, the Permittee shall contact CDFW's Regional Representative within one (1) working day of discovery.	ITP Condition # 8.11	Entire Project	Permittee	
59	<u>Materials Inspection.</u> Workers shall thoroughly inspect all construction pipe or similar material with a diameter of 1 inch or greater that are stored for one or more overnight periods for Covered Species before the material is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe or similar material, workers shall notify the Designated Biologist 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 Covered Species will not leave the Project Area unimpeded, the Designated Biologist shall capture and relocate the Covered Species as per the CDFW-approved Covered Species Salvage and Relocation Plan described in Condition of Approval 7.7, after receiving approval from the CDFW Regional Representative. If, at any time, a Covered Species 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	
60	<u>Night Work.</u> All Covered Activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise except when nightwork 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 # 8.13	Entire Project	Permittee	
61	<u>Stockpiles.</u> Permittee shall ensure that soil stockpiles are placed where soil shall not pass into potential Covered Species breeding pools; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.	ITP Condition # 8.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
62	<u>Record of Handling and Covered Species Reporting.</u> All Covered Species captures, relocations, and observations by the Designated Biologist 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, 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.	ITP Condition # 8.15	Entire Project	Permittee	
63	<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 that routinely evaluates and treats amphibians. Permittee shall identify the facility in the Mortality Reduction and Relocation Plan, prior to the start of Covered Activities. Permittee shall bear any 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 # 8.16	Entire Project	Permittee	
64	<u>Dry Season Work.</u> Fill, vegetation removal, or other ground-disturbing activities within or immediately adjacent (within 250 feet) to known or potential Covered Species breeding habitat shall be confined to the dry season from June 15 to October 31.	ITP Condition # 8.17	Entire Project	Permittee	
65	<u>Wetland Development Notification at YLCA.</u> The Permittee shall notify CDFW in writing when wetland restoration work begins at YLCA and notify CDFW when wetland restoration work is completed at YLCA. Wetland restoration for the Permittee shall be limited to the areas described in the Wetland Development Plan (Condition of Approval 7.6). An alternative wetland restoration area for the Permittee may be designated with written approval from CDFW. Wetland restoration work for the Project shall not occur when wetland restoration activities occur for any other project or activity at YLCA.	ITP Condition # 8.19	Entire Project	Permittee	
66	<u>Conditions of Approval at the Wetland Development Plan Areas.</u> Wetland Development Plan activities at the YLCA shall implement all General Provisions set forth in Condition of Approval 8.29.	ITP Condition # 8.20	Entire Project	Permittee	
67	<u>Notification of Non-compliance at the YLCA.</u> The Designated Representative shall immediately notify CDFW in writing if he or she determines that the Permittee is not in compliance with any Condition of Approval of the ITP at the YLCA, 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 at the YLCA to CDFW within 24 hours.	ITP Condition # 8.21	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
68	<u>Compliance Monitoring at the YLCA.</u> The Designated Biologist(s) shall be on-site daily at the YLCA when vegetation- and ground-disturbing Covered Activities occur. The Designated Biologist(s) 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, and that Covered Activities are only occurring in the Project Area. During initial vegetation and soil disturbance, the Designated Biologist(s) shall conduct compliance inspections continuously within the Project Area where Covered Activities are occurring. After initial vegetation and soil disturbance, the Designated Biologist(s) shall conduct compliance inspections a minimum of once per day when Covered Activities occur. The Designated Representative or Designated Biologist(s) shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, and monitoring activities required by the ITP.	ITP Condition # 8.22	Entire Project	Permittee	
69	<u>Equipment Fueling and Maintenance at the YLCA.</u> Mobile equipment fueling and maintenance at the YLCA shall occur at least 100 feet from existing and to-be-created breeding habitat features for the Covered Species. Permittee shall locate fixed equipment fueling and maintenance areas, either permanently or temporarily fixed, at a distance of at least 100 feet from Covered Species breeding habitat, and shall include fixed containment devices that will preclude fuel or other liquids from exiting the equipment fueling maintenance area in the event of a spill or leak. Permittee shall ensure that sufficient spill containment and cleanup equipment are present at all mobile, temporary, and permanent equipment fueling locations.	ITP Condition # 8.23	Entire Project	Permittee	
70	<u>Staging Area at the YLCA.</u> The temporary Staging Area at the YLCA shall be located at a distance of at least 100 feet from existing and to-be-created breeding habitat features for the Covered Species, and shall include fixed containment devices that will preclude any fuel or other liquids from exiting the Staging Area in the event of a spill or leak. Sufficient spill containment and cleanup equipment shall be present at the temporary Staging Area. Permittee shall restore the temporary Staging Area to pre-Project conditions upon the completion of vernal pool creation work.	ITP Condition # 8.24	Entire Project	Permittee	
71	<u>Night Work at the Wetland Development Plan Areas.</u> Permittee shall strictly prohibit all Covered Activities at night (the period between sunset and sunrise) at the YLCA.	ITP Condition # 8.25	Entire Project	Permittee	
72	<u>Herbicide Use at the YLCA.</u> Permittee shall prohibit the use of herbicides at the YLCA, except to spot-treat non-native invasive vegetation (as defined, described, and inventoried as invasive by the California Invasive Plant Council). Permittee shall ensure that all herbicide use (mixing, application, and clean-up) at the YLCA is done by a licensed applicator in accordance with all applicable state, federal, and local regulations. Permittee shall only apply herbicide sprays via ground application when wind speed measures less than 3 miles per hour at the YLCA. Permittee shall ensure all herbicide sprays utilized within and adjacent to identified habitat features suitable for Covered Species contain a dye (registered for aquatic use by the California Department of Pesticide Regulation, if warranted) to prevent overspray at the YLCA.	ITP Condition # 8.26	Entire Project	Permittee	
73	<u>Rodenticide Use at the YLCA.</u> Permittee shall prohibit the use of rodenticides at the YLCA.	ITP Condition # 8.27	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
74	<u>Land Grading and Contouring</u> . Permittee shall conduct land grading and contouring only within the vernal pool creation areas identified in the CDFW-approved Plan prepared as per Condition of Approval 7.6.	ITP Condition # 8.29.1	Entire Project	Permittee	
75	<u>YLCA Maps</u> . Permittee shall maintain Geographic Information Systems (GIS) shapefile layers and associated maps depicting mapped areas of all Covered Activities within the YLCA. Permittee shall provide the above information to CDFW with the Quarterly Compliance Report.	ITP Condition # 8.29.2	Entire Project	Permittee	
76	<u>Disturbed Acres</u> . Permittee shall document the cumulatively disturbed acreages of the YLCA from Covered Activities. Permittee shall provide the above information to CDFW with the Quarterly Compliance Report.	ITP Condition # 8.29.3	Entire Project	Permittee	
77	<u>Soil Stockpiles</u> . Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential Covered Species breeding habitat or "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.	ITP Condition # 8.29.4	Entire Project	Permittee	
78	<u>Inoculum Collection</u> . Inoculum shall be collected from the Development Project site. The Permittee may propose alternative inoculum collection sites in writing to CDFW for written approval. The Permittee shall not collect inoculum from vernal pools where state listed (threatened, endangered, or rare) or invasive plants occur.	ITP Condition # 8.29.5	Entire Project	Permittee	
79	<u>Dry Season Work</u> . Permittee shall confine fill or other ground-disturbing activities on the YLCA to the dry season from June 15 to October 31.	ITP Condition # 8.30.3	Entire Project	Permittee	
80	<u>Equipment Inspection</u> . Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist(s) and wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Permittee shall contact the Designated Biologist(s) to determine if he or she can safely move the Covered Species out of harm's way in compliance with the ITP.	ITP Condition # 8.30.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
81	<u>Daily Entrapment Inspections</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 (including weekends and any other non-work days) for trapped Covered Species. Permittee shall ensure that any excavation has sides less than a 1:1 slope to prevent inadvertent entrapment of Covered Species. If at any time an excavation must have sidewalls with a 1:1 or greater slope and will be left unattended, the Permittee shall install an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the Designated Biologist(s) shall oversee the covering of the excavation with material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. The Designated Biologist shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species immediately before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded if possible before Covered Activities continue, or the Designated Biologist(s) shall capture and relocate the Covered Species as per the Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.7 above.	ITP Condition # 8.30.8	Entire Project	Permittee	
82	<u>Covered Species Record of Handling</u> . All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the Covered Species; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 7.8. This information shall also be included in the Quarterly and Annual Compliance Reports.	ITP Condition # 8.30.9	Entire Project	Permittee	
83	<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 that routinely evaluates and treats amphibians. Permittee shall also comply with the provisions as described in Condition of Approval 8.16 above.	ITP Condition # 8.30.10	Entire Project	Permittee	
84	<u>Rain Forecast</u> . The Designated Biologist(s) and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 50 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in the Project Area. Work may continue 24 hours after the rain ceases and there is a zero percent chance of precipitation in the 72-hour forecast. If work must continue when rain is forecast, the Designated Biologist(s) shall survey the Project Area before Covered Activities resume to capture and relocate any Covered Species that are discovered during the surveys. Once the Project Area has been cleared of Covered Species and enclosed with Covered Species exclusion fencing, in accordance with Conditions of Approval 8.30.1, 8.30.2, and 8.30.5 above, may continue Covered Activities during rainfall events.	ITP Condition # 8.30.11	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
85	<u>Fieldwork Code of Practice</u> . Permittee shall follow the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) at all times to ensure that disease is not conveyed between work sites by the Designated Biologist(s). 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 # 8.30.12	Entire Project	Permittee	
POST-CONSTRUCTION					
86	<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 isolates species, wear disposable gloves and change them between handling each animal. Dedicate sets of nets, boots, traps, and other equipment to each site being visited. Clean and store them separately and the end of each field day.
5. When amphibians are collected, ensure the separation of animals from different sites and take great care to avoid indirect contact between them (e.g. via handling, reuse of containers) or with other captive animals. Isolation from un-sterilized plants or soils which have been taken from other sites is also essential. Always use disinfected/disposable husbandry equipment.
6. Examine collected amphibians for the presence of diseases and parasites soon after capture. Prior to their release or the release of any progeny, amphibians should be quarantined for a period and thoroughly screened for the presence of any potential disease agents.
7. Used cleaning materials (liquids, etc.) should be disposed of safely and if necessary taken back to the lab for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.



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>
_____	_____	_____	_____	_____

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 Signature

REJECTED ___ 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
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
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]"

Attachment 5

California Department of Fish and Wildlife

Mitigation Payment Transmittal Form

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 FASB Mitigation Tracking Number (if available) on the attached payment type.

(1) DATE: _____

TO: _____
[CDFW Regional Manager]

[CDFW 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 1802 Agreement
 2835 NCCP Other _____

[Project Tracking Number]

[FASB Mitigation Tracking Number (if available)]
Index _____ PCA _____

(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: _____