

Planning Agreement

by and among

**Aera Energy LLC,
the California Department of Fish and Wildlife,
the United States Fish and Wildlife Service, and the
California Department of Conservation**

regarding the

**Aera Energy Southwest San Joaquin Valley
Habitat Conservation Plan and
Natural Community Conservation Plan**

February 2020

NCCP Planning Agreement No. 2810-2020-001-04

TABLE OF CONTENTS

1.	Definitions	4
2.	Background.....	5
2.1.	Natural Community Conservation Planning Act.....	5
2.2.	Purposes of NCCP Planning Agreements	6
2.3.	Compliance with CESA and ESA	6
2.4.	Section 7 of ESA.....	7
2.5.	Concurrent Planning for Wetlands and Waters of the United States....	7
2.6.	Assurances	7
2.6.1.	ESA	7
2.6.2.	NCCPA.....	7
3.	Planning Goals	8
4.	Planning Area and Plan Participants	8
4.1.	Geographic Scope.....	9
4.2.	Applicant	9
4.3.	California Department of Fish and Wildlife	9
4.4.	United States Fish and Wildlife Service	9
5.	Preliminary Conservation Objectives	10
5.1	Conservation Elements.....	10
5.1.2	Ecosystems, Natural Communities, and Species List.....	10
5.1.3	Conservation Areas and Viable Habitat Linkages	11
5.1.4	Project Design	11
6.	Preparing the Plan	11
6.1.	Best Available Scientific Information	11
6.2.	Data Collection	11
6.3.	Independent Scientific Input.....	13
6.4.	Public Participation	13
6.4.1.	Steering Committee.....	14
6.4.2.	Outreach.....	14
6.4.3.	Availability of Public Review Drafts	15
6.4.4.	Public Hearings	15
6.4.5.	Public Review and Comment Period Prior to Adoption	15
6.5.	Covered Activities	15
6.6.	Interim Project Processing	16
6.6.1.	Reportable Interim Projects.....	16
6.6.2.	Notification Process	17
6.6.3.	Wildlife Agency Review.....	17
6.6.4.	Coordinating Interim Process with Plan Preparation.....	18
6.7.	Protection of Habitat Land During Planning Process	18
6.7.1.	Conservation Lands Acquired/Protected	18
6.7.2.	Mitigation Lands	18
6.8.	Implementing Agreement.....	18
7.	Commitment of Resources	19

7.1.	Funding	19
7.1.1.	Applicant Funding	19
7.1.2.	CDFW Assistance with Funding and CDFW Costs	19
7.1.3.	USFWS Assistance with Funding	19
7.2.	Expertise of the Wildlife Agencies and DOC	20
8.	Miscellaneous Provisions	20
8.1.	Public Officials Not to Benefit	20
8.2.	Statutory Authority	20
8.3.	Multiple Originals	20
8.4.	Effective Date	20
8.5.	Duration	20
8.6.	Amendments	20
8.7.	Termination and Withdrawal	20
8.7.1.	Funding	21
Exhibit 1.	Aera Energy Southwest San Joaquin Valley HCP/NCCP Planning Area Map	23
Exhibit 2.	Description of Natural Communities and Preliminary List of Covered Species for the Aera Energy Southwest San Joaquin Valley HCP/NCCP	24

Aera Energy Southwest San Joaquin Valley HCP/NCCP Planning Agreement

This agreement regarding the planning and preparation of the Aera Energy Southwest San Joaquin Valley Habitat Conservation Plan and Natural Community Conservation Plan (“Planning Agreement”) is entered into as of the Effective Date by and among the California Department of Fish and Wildlife (“CDFW”), the United States Fish and Wildlife Service (“USFWS”), the California Department of Conservation (“DOC”), and Aera Energy, LLC. These entities are referred to collectively as “Parties” and each individually as a “Party.”

1. Definitions

Terms used in this Planning Agreement that are defined in the Natural Community Conservation Planning Act have the meanings set forth in Fish and Game Code Section 2805. The following terms as used in this Planning Agreement will have the meanings set forth below.

1.1. “Applicant” means Aera Energy, LLC, which is the applicant for the Aera Energy Southwest San Joaquin Valley HCP/NCCP.

1.2. “CEQA” means the California Environmental Quality Act, Public Resources Code, Section 21000, *et seq.*

1.3. “CESA” means the California Endangered Species Act, California Fish and Game Code, Section 2050, *et seq.*

1.4. “Covered Activities” means the activities that will be addressed in the Plan and for which the Applicant will seek an NCCP permit pursuant to Fish and Game Code, Section 2835 and an incidental take permit pursuant to Section 10 of ESA.

1.5. “Covered Species” means those species, both listed and non-listed, conserved and managed under an approved Plan that may be authorized for take under state and/or federal law.

1.6. “ESA” means the federal Endangered Species Act, 16 United States Code Section 1531, *et seq.*

1.7. “HCP” means a Habitat Conservation Plan prepared pursuant to Section 10(a)(1)(B) of ESA.

1.8. “IA” means “Implementing Agreement” for the agreement required pursuant to Fish and Game Code Section 2820, subdivision (b) and authorized under 16 U.S.C. Section 1539, subdivision (a)(2)(B) which defines the terms for implementing the Plan.

1.9. “Interim Period” means the period of time between the date of execution of this Planning Agreement and the date of execution of the Plan.

1.10. “Listed Species” means those species designated as candidate, threatened, or endangered pursuant to CESA and/or listed as threatened or endangered under ESA.

1.11. “NCCP” means “Natural Community Conservation Plan” for a conservation plan created pursuant to Fish and Game Code, Section 2800, *et seq.*

1.12. “NCCPA” means “Natural Community Conservation Planning Act” as defined in Fish and Game Code, Section 2800, *et seq.*

1.13. “NEPA” means the National Environmental Policy Act, 42 United States Code Section 4321, *et seq.*

1.14. “Plan” means the joint natural community conservation plan and habitat conservation plan.

1.15. “Planning Area” means the geographic area proposed to be addressed in the Plan as described in Exhibit 1.

1.16. “Planning Subareas” means those geographic areas that are smaller units of the Planning Area that will each have a specific function or jurisdictional boundary within the permitted Plan.

1.17. “Public Agency” means any agency with discretionary approval over the Applicant’s activities.

1.18. “Wildlife Agencies” means CDFW and USFWS.

2. Background

2.1. Natural Community Conservation Planning Act

The NCCPA was enacted to encourage broad-based planning to provide for effective protection and conservation of the state’s wildlife resources while continuing to allow appropriate development and growth. The purpose of natural community conservation planning is to provide for the conservation of biological diversity by protecting biological communities at the ecosystem and landscape scale. Conservation of biological diversity includes protecting sensitive and more common species, natural communities, and the ecological processes necessary to sustain the ecosystem over time. An NCCP identifies and provides for the measures necessary to conserve and manage natural biological diversity within the Planning Area, while allowing compatible and appropriate economic development, growth, and other human uses.

2.2. Purposes of NCCP Planning Agreements

The purposes of NCCP Planning Agreements are to:

- Define the Parties' goals and commitments with regard to development of a Plan;
- Define the geographic scope of the conservation Planning Area;
- Identify a preliminary list of natural communities and species known or reasonably expected to be found in those communities, that are intended to be the initial focus of the Plan;
- Identify preliminary conservation objectives for the Planning Area;
- Establish a process for the inclusion of independent scientific input into the planning process;
- Ensure coordination among the Wildlife Agencies, particularly with respect to ESA, 16 U.S.C. Section 1531 et seq.;
- Establish a process to review interim development within the Planning Area that will help achieve the preliminary conservation objectives and preserve options for establishing a viable reserve system or equivalent long-term conservation measures; and
- Ensure public participation and outreach throughout the planning process.

A fully executed Planning Agreement does not equate to, or guarantee, final approval of a Plan.

2.3. Compliance with CESA and ESA

The Planning Area contains valuable biological resources, including native species of wildlife and their habitat. Among the species within the Planning Area are certain species that are protected, or may be protected in the future, under CESA and/or ESA. The Parties intend for the Plan to satisfy the requirements for an HCP under Section 10(a)(1)(B) of ESA, and an NCCP under the NCCPA, to serve as the basis for take authorizations under both Acts.

The NCCPA provides that after the approval of an NCCP, CDFW may permit the taking of any identified species, listed or non-listed, whose conservation and management is provided for in the NCCP. Take of state-listed species may be authorized pursuant to CESA during development of the Plan. After approval of the Plan, state authorized take may be provided pursuant to the NCCPA.

ESA provides that after the approval of an HCP, USFWS may permit the taking of wildlife species covered in the HCP if the HCP and permit application meet the requirements of Section 10(a)(2)(A) and (B) of ESA. Take authorization for federally listed wildlife species covered in the HCP shall generally be effective upon approval of the HCP and issuance of an

incidental take permit. Take authorization for non-listed wildlife species covered in the HCP becomes effective if the species is listed pursuant to ESA. Take authorization during plan preparation for wildlife species listed pursuant to ESA may be provided pursuant to individual permits issued pursuant to Section 10(a)(1)(B), or consultations under Section 7 of ESA.

2.4. Section 7 of ESA

To the extent allowed under law, the Parties intend that the minimization measures included in the Plan, once approved by the USFWS and included as a condition of federal incidental take permits may be incorporated into future Section 7 consultations between the USFWS and the United States Army Corps of Engineers, the United States Bureau of Reclamation, or other applicable federal agencies regarding Covered Activities that may adversely affect Covered Species or their habitat.

2.5. Concurrent Planning for Wetlands and Waters of the United States

The Applicant intends to address impacts to wetlands and waters of the United States and changes to the bed, bank, or channel of rivers, streams, and lakes resulting from Covered Activities in the Planning Area. Based on the Plan, the Applicant may seek future programmatic permits or authorizations under the Clean Water Act and Section 1600 *et seq.* of the Fish and Game Code as necessary for Covered Activities. The Parties agree to work together to explore the feasibility of undertaking concurrent but separate planning regarding these permits. However, such programmatic permits or authorizations are not necessary for approval of the Plan or for issuances of take permits.

2.6. Assurances

2.6.1. ESA

The Parties anticipate that the USFWS will provide assurances pursuant to applicable federal law and regulations then in effect upon issuance of federal incidental take permits to the Applicant.

2.6.2. NCCPA

The Parties anticipate that if the Plan meets the criteria for an NCCP permit under Sections 2800 through 2835 of the Fish and Game Code, CDFW will provide assurances consistent with its statutory authority upon approval of the Plan and issuance of NCCP permits to the Applicant. Under Section 2820(f) of the Fish and Game Code, CDFW may provide assurances for plan participants commensurate with the level of long-term conservation and associated implementation measures provided in the Plan. In order to ensure that state regulatory assurances are legally binding, such provisions will be included in an Implementing Agreement.

3. Planning Goals

The planning goals include the following:

- Provide for the conservation and management of Covered Species;
- Preserve aquatic and terrestrial resources through conservation partnerships with the Applicant;
- Allow for appropriate and compatible growth and development that is consistent with applicable laws;
- Provide a basis for permits necessary to lawfully take Covered Species;
- Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements of ESA, CEQA, NEPA, and NCCPA within the Planning Area;
- Provide a less costly, more efficient project review process which results in greater conservation values than project-by-project, species-by-species review; and
- Provide clear expectations and regulatory predictability for persons carrying out Covered Activities within the Planning Area.

The Applicant's specific Planning Goals include:

- Contribute to recovery of upland species in the San Joaquin Valley;
- Provide regulatory certainty for future development and operations and maintenance activities for endangered species compliance;
- Create a conservation strategy that increases the Applicant's operational flexibility by establishing clear, consistent, and practical avoidance and minimization measures that are included in existing workflows;
- Improve the effectiveness and efficiency of the Applicant's avoidance, minimization, and mitigation measures;
- Utilize a significant portion of the Applicant's land holding in the southwest San Joaquin Valley as conservation lands; and
- Implement creative conservation solutions, which will improve the effectiveness of the Applicant's conservation strategy and benefit the Covered Species.

4. Planning Area and Plan Participants

The Applicant is one of the largest oil producers in California, with most of its operations and production occurring in the San Joaquin Valley, an area that also supports many federal and state threatened and endangered species. The Applicant is pursuing a long-term regional permit, through the completion of an HCP for federal permit coverage and an NCCP for state permit coverage, to serve as the basis for take authorizations for Covered Species in the Planning Area.

This new HCP/NCCP is intended to replace and supplement the Arco Western Energy HCP and ESA Section 10(a)(1)(B) incidental take permit that the Applicant assumed in 2017. That HCP was approved in 1996 with a 30-year duration. It only

covers Applicant's operations in Kern County and only provides federal take authorization. There was an associated CESA "Management Permit" issued to Arco in 1992, which did not transfer to Aera when Aera acquired Arco's Kern County holdings in 1999. The requirements for securing CESA take authorization were amended in 1997, and Aera has been acquiring project-specific CESA permits as needed under these revised standards since 1999. The Applicant is interested in pursuing take coverage, including state coverage, for Covered Activities conducted on all of its property in the San Joaquin Valley floor portion of Kern, Kings, and Fresno Counties.

4.1. Geographic Scope

The geographic scope of the Planning Area to be addressed in the Plan covers approximately 1,950,891 acres in Kern, Kings, and Fresno Counties, as depicted in Exhibit 1. The Planning Area includes the area in which the Applicant currently conducts operations and maintenance activities, where the Applicant anticipates constructing and operating oil and gas infrastructure in the future, and sites that will be conserved as part of the reserve system. The proposed Planning Area is designed to include administrative boundaries of oil and gas fields in western Kern, Kings, and Fresno Counties, as well as oil and gas leases and other lands owned by the Applicant. The western boundary corresponds to the western boundary of Kern, Kings, and Fresno Counties. The eastern boundary generally corresponds with Interstate 5, but extends east of Interstate 5 in Kern County to include large blocks of natural and protected lands.

4.2. Applicant

The Applicant is the sponsor of the Plan. As part of this planning process, the Applicant has committed to undertake a collaborative, systematic approach to protecting the Planning Area's ecologically significant resources, including candidate, threatened, and endangered species and their habitats, open space, and working landscapes, and to ensure that the Covered Activities comply with applicable federal and state laws.

4.3. California Department of Fish and Wildlife

CDFW is the agency of the State of California authorized to act as trustee for the state's wildlife. CDFW is authorized to approve NCCPs pursuant to the NCCPA, administer and enforce CESA and other provisions of the Fish and Game Code, and enter into agreements with state, federal, and local governments and other entities for the conservation of species and habitats pursuant to CESA and the NCCPA.

4.4. United States Fish and Wildlife Service

The USFWS is an agency of the United States Department of the Interior authorized by Congress to administer and enforce ESA with respect to terrestrial wildlife, certain fish species, insects, and plants, and to enter into agreements with states, local governments, and other entities to conserve

threatened, endangered, and other species of concern. The NCCPA and this Planning Agreement require coordination with USFWS with respect to ESA.

4.5. California Department of Conservation

DOC is an agency of the State of California. DOC's California Geologic Energy Management Division (CalGEM) regulates the drilling, operation, maintenance, and abandonment of oil and gas wells. In regulating oil and gas activities, CalGEM has a mandate to prevent, as far as possible, damage to life, health, property, and natural resources and to promote the wise use of natural resources. DOC is authorized to enter agreements with state, federal, and local governments to achieve the mandate, including protecting species and habitats.

5. Preliminary Conservation Objectives

The preliminary conservation objectives intended to be achieved through the Plan are to:

- Provide for the protection of species, natural communities, and ecosystems on a landscape level;
- Preserve the diversity of plant and animal communities throughout the Planning Area;
- Protect threatened, endangered or other special status plant and animal species, and minimize and mitigate the take or loss of proposed Covered Species;
- Identify and designate biologically sensitive habitat areas;
- Preserve habitat and contribute to the recovery of Covered Species;
- Reduce the need to list additional species;
- Set forth species-specific goals and objectives; and
- Set forth specific habitat-based goals and objectives expressed in terms of amount, quality, and connectivity of habitat.

5.1 Conservation Elements

5.1.2 Ecosystems, Natural Communities, and Species List

The Plan will employ a strategy that focuses on the conservation of ecosystems, natural communities, and ecological processes in the Planning Area. In addition, the Plan will employ species-specific minimization, mitigation, conservation, and management measures where appropriate.

A narrative description of natural communities and a preliminary list of the endangered, threatened, candidate, or other sensitive species known, or reasonably expected to be found, in the Planning Area, that are intended to be the initial focus of the Plan is attached as Exhibit 2. This list identifies the species that the Parties will evaluate for inclusion in the Plan. Exhibit 2 is not necessarily the Plan's final Covered Species list. The Parties acknowledge that inclusion of a particular species as a Covered Species in the Plan will require an individual determination by each Wildlife Agency that the Plan

adequately provides for conservation of the species in accordance with State and/or Federal permit issuance requirements.

5.1.3 Conservation Areas and Viable Habitat Linkages

The Plan will establish conservation areas throughout the Planning Area and provide linkages, where appropriate, between the conservation areas within the Planning Area. It will also identify where linkages between the conservation areas and important habitat areas outside the Planning Area should occur. Such conservation areas will include a range of environmental gradients and ecological functions and will address edge effects and other reserve design principles.

5.1.4 Project Design

The Plan will ensure that projects will be appropriately designed to avoid and/or minimize and mitigate on-site and off-site impacts to resources.

6. Preparing the Plan

The Parties intend that this Planning Agreement will fulfill the NCCPA requirements pertaining to planning agreements and will establish a mutually agreeable process for preparing the Plan that fulfills the requirements of the NCCPA and ESA. The process used to develop the Plan will incorporate independent scientific input and analysis and include extensive public participation with ample opportunity for comment from the general public as well as advice solicited by the Applicant from key groups of stakeholders as described below.

6.1. Best Available Scientific Information

The Plan will be based on the best available scientific information, including, but not limited to:

- principles of conservation biology, community ecology, landscape ecology, individual species' ecology, and other scientific knowledge and thought;
- information about each natural community and proposed Covered Species on lands throughout the Planning Area; and
- advice from well-qualified, independent scientists.

6.2. Data Collection

The Parties agree that information regarding the subjects briefly described below in Sections 6.2.1 to 6.2.3 is important for preparation of the Plan. The Parties therefore agree that data collection for preparation of the Plan should be prioritized to develop more complete information on these subjects.

Preference should be given to collecting data essential to address conservation requirements of natural communities and proposed Covered Species. The science advisory process and analysis of existing information may reveal data gaps currently not known that are necessary for the full and accurate development of the Plan. Data needed for preparation of the Plan may not be known at this time nor identified herein. Therefore, the Parties

anticipate that data collection priorities may be adjusted from time to time during the planning process. All data collected for the preparation and implementation of the Plan will be made available to the Wildlife Agencies in hard and digital formats, as requested.

6.2.1. Species and Habitat Locations

Various sources will be reviewed to determine which species and associated habitats have the potential to occur in the Planning Area. These will include, but will not be limited to, the following:

1. California Natural Diversity Database (CNDDDB), maintained by the California Department of Fish and Wildlife;
2. USFWS' list of federally listed candidate, threatened, or endangered species;
3. USFWS' Environmental Conservation Online System (ECOS) and Information for Planning and Consultation (IPaC) web-based species databases;
4. Covered Species list for the existing Arco Western Energy HCP and previous CESA Management Permit;
5. The "Scoping: Coles Levee HCP Assumption/Amendment" document provided by the Applicant on August 31, 2017;
6. Existing species occurrence data from surveys conducted by the Applicant; and
7. Discussions with species experts including the Wildlife Agencies.

6.2.2. Applicant's Lands

The Applicant will provide its land holdings for evaluation for their potential for conservation opportunities based on natural communities and special-status species and Covered Species present on these lands. Descriptions of biological diversity will be based on existing data for different taxonomic groups such as:

1. California Native Plant Society (CNPS) checklists of plants;
2. CalFlora database at the University of California, Berkeley;
3. Species lists from surveys conducted within the Planning Area;
4. CNDDDB;
5. Associations of vertebrates with each natural community in the area according to the CDFW Wildlife Habitat Relationship; and
6. USFWS IPaC web-based species database.

6.2.3. Other Data

A variety of other data will be used to prepare the Plan including, but not limited to:

1. Climate: National Oceanic and Atmospheric Administration (NOAA) data;
2. Ecoregions: U.S. Geological Survey (USGS) Ecoregion data;
3. Geology/Topography/Watersheds and Surface Hydrology: California Geological Survey data (CGS 2010);

4. Soils: U.S. Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS) data;
5. Existing Land Uses: Kern County zoning information (Kern County 2017), Kings County zoning information, and Fresno County zoning information; and
6. Land Cover: CDFW California Wildlife Habitat Relationship System and true-color aerial imagery.

Other sources will be reviewed for potential use and may include relevant connectivity studies (e.g., California Essential Habitat Connectivity Project, Core Reserves and Linkages) and biodiversity and climate vulnerability data.

6.3. Independent Scientific Input

The Applicant and CDFW will include independent scientific input and analysis to assist in the preparation of the Plan. For that purpose, independent scientists representing a broad range of disciplines, including conservation biology and locally relevant ecological knowledge, will, at a minimum:

- recommend scientifically sound conservation strategies for species and natural communities proposed to be covered by the plan;
- recommend a set of reserve design principles that address the needs of species, landscapes, ecosystems, and ecological processes in the Planning Area;
- recommend management principles and conservation goals that can be used in developing a framework for the monitoring and adaptive management component of the plan; and
- identify data gaps and uncertainties so that risk factors can be evaluated.

The independent scientists may be asked to provide additional feedback on key issues during preparation of the Plan and may prepare reports regarding specific scientific issues throughout the process, as deemed necessary by the Applicant and CDFW.

Design and implementation of the science advisory process must be done in a coordinated fashion and with the mutual agreement of the Applicant and CDFW. The Applicant and CDFW will establish funding and payment procedures. The independent science advisory process will include the development of a detailed scope of work, use of a professional facilitator, input from technical experts and members of the public, and production of a report by the scientists. In addition, the Applicant and CDFW will make the report available for use by all participants and the public during the planning process.

6.4. Public Participation

The Applicant will prepare the Plan in an open and transparent process with an emphasis on obtaining input from a balanced variety of public and private

interests including state, local, and tribal governments, landowners, conservation organizations, agricultural commissioners, agricultural organizations, and the general public. The applicant will support meaningful public participation by extending outreach efforts to limited-English-speaking populations to ensure that they have access to information and decision-making processes. The planning process will consider environmental justice concerns as appropriate. The planning process will also provide for thorough public review and comment. To assist in the development of the Plan, the Applicant and the Wildlife Agencies will form a Steering Committee. The planning process will include opportunities for the public to engage in the planning effort as described in Sections 6.4.1 – 6.4.5, below.

6.4.1. Steering Committee

The Applicant and Wildlife Agencies will form a steering committee that will meet periodically to guide development of the plan (“Steering Committee”). Other agencies may be included in Steering Committee meetings as necessary or beneficial during plan development. Staff from the Applicant and Wildlife Agencies will work with the Steering Committee to provide technical expertise and share information for the development and implementation of the Plan.

6.4.2. Outreach

The Applicant will develop an outreach strategy to allow for public participation throughout Plan development and also maximize the use of opportunities for public participation already provided by law. This strategy will include developing a list of stakeholders through outreach that includes environmental (including environmental justice), business, and industry (energy and agriculture) interest groups, local governments, and interested members of the public and registering attendees at public meetings. The list of stakeholders will be notified of all public meetings and availability of all public review drafts of the Plan and Plan documents, and opportunities for public participation in the science advisory process. The Applicant will also notify the public of all public meetings and opportunities for public participation in the science advisory process through newspaper announcements in three local papers of general circulation. Public notices for the science advisory process or any public hearings required by CEQA or NEPA will be prepared in English and Spanish and in any other language identified during the public outreach efforts to limited-English-speaking populations. Opportunities for engaging in the Plan development process will include:

- At least four public briefings in various locations throughout the Planning Area to provide information to potential stakeholders and the public, and provide opportunities for public input;
- An opportunity for public participation in the science advisory process described in Section 6.3 above;

- Information on the Applicant’s webpage about the Plan, including all public review drafts of Plan documents. Applicant’s webpage will also allow the public to register to receive information on the Plan and to provide feedback throughout Plan development; and
- Use of public scoping meetings, public draft review periods, and other public meetings as required by law.

6.4.3. Availability of Public Review Drafts

The Applicant will designate and make available for public review in a reasonable and timely manner “public review drafts” of pertinent planning documents including, but not limited to, plans, memoranda of understanding, maps, conservation guidelines, and species coverage lists. Such documents will be made available by the Applicant at least ten working days prior to any public hearing addressing these documents. In addition, the Applicant will make available all reports and formal memoranda prepared by the independent science advisory panel or Steering Committee. This obligation will not apply to all documents drafted during preparation of the Plan. However, the Parties will periodically designate various pertinent documents drafted during preparation of the Plan as “public review drafts” and will make these documents available to the public. The Parties agree the internet [www.aeraenergy.com] will be one of the principal means of making documents available for public review, as well as more traditional means such as distribution and display of hard copies of such documents.

6.4.4. Public Hearings

Public hearings regarding development of the Plan will be planned and conducted in a manner that satisfies the requirements of CEQA, NEPA, and any other applicable state or federal laws. The Applicant will provide Spanish language access services for all public hearings and other language access services as requested for limited-English-speaking populations identified during the public outreach efforts.

6.4.5. Public Review and Comment Period Prior to Adoption

The Applicant will make the proposed draft Plan and Implementing Agreement available for public review and comment at least 60 days before adoption. The Applicant expects to fulfill this obligation by distributing the draft Plan and Implementing Agreement with the draft environmental impact report prepared for the Plan pursuant to CEQA and/or the draft environmental impact statement prepared for the Plan pursuant to NEPA.

6.5. Covered Activities

Covered Activities under the Plan are those activities undertaken by the Applicant that may result in authorized take or loss of Covered Species that will be identified and addressed in the Plan. Covered Activities may include: 1) oil and gas activities and associated solar facilities including, but not limited to, geophysical surveys, exploration and appraisal, construction,

drilling and completions, operations and maintenance, and well abandonment and decommissioning of facilities; and 2); Plan implementation activities including controlled livestock grazing, invasive plant management, site security and infrastructure, and biological monitoring; and 3) adaptive habitat management and monitoring activities in the Planning Area. Construction of oil and gas facilities may include well pad preparation and expansion, access road construction, electric utility lines and facilities construction, pipeline construction, and central ancillary facilities construction. Drilling activities may include drilling production wells (including cyclic steam producers), injection wells, disposal wells, and observation wells. Operation of wells may include well stimulation techniques, such as hydraulic fracturing and acid well stimulation treatment(s) (within the meaning of Public Resources Code Sections 3157 through 3159), and other methods and practices for extraction (e.g., underground injection, steamflood, cyclic steaming, etc.) as may be regulated by CalGEM pursuant to Public Resources Code Sections 3106, 3130, subd. (e), or otherwise. The Parties intend that the Plan will allow the Covered Activities in the Planning Area to be carried out in compliance with the NCCPA, CESA, and ESA.

6.6. Interim Project Processing

The Parties recognize that before the Wildlife Agencies approve the Plan, certain projects and activities may be proposed within the Planning Area consistent with applicable requirements. The Parties agree to the following interim project process to: (1) ensure that development, construction, and other projects or activities approved or initiated in the Planning Area before completion of the Plan are consistent with the preliminary conservation objectives (Section 5) and do not compromise successful completion and implementation of the Plan; (2) facilitate CEQA, CESA, and ESA compliance for interim projects that require it; and (3) ensure that processing of interim projects is not unduly delayed during preparation of the Plan. The Applicant recognizes that this interim process does not substitute for consultation with the USFWS under ESA and that implementation of the interim project process does not confer exemption from the prohibitions in Section 9 of the ESA or authorize take of species listed pursuant to CESA.

6.6.1. Reportable Interim Projects

The Applicant reviews its proposed projects and activities to promote compliance with all applicable federal, state, and local regulations. Based on project scope, Applicant's internal review will include activities such as evaluating the environmental impacts of projects and activities that involve ground disturbance, removal of vegetation, off-road travel, installation of new infrastructure, work within areas covered by an existing Incidental Take Permit(s), work on federal leases, or work in areas with known occurrences of listed or sensitive species. The Applicant's proposed projects and activities are also potentially subject to review and approval by federal, state, and local agencies, including, but not limited to, the Wildlife Agencies, CalGEM, the

Bureau of Land Management, the Central Valley Regional Water Quality Control Board, the San Joaquin Valley Air Pollution Control District, the County of Fresno, the County of Kern, and the County of Kings.

The Applicant will notify the Wildlife Agencies pursuant to Section 6.6.2 of all projects proposed during the Interim Period that have the potential to adversely impact Covered Species and natural communities or conflict with the preliminary conservation objectives contained in Section 5 of this Planning Agreement. The Applicant will also notify the Wildlife Agencies pursuant to Section 6.6.2 regarding all proposed new development such as construction of new oil and gas wells, pipelines, roads, electrical power lines, or other infrastructure and facilities that are located outside of established CalGEM Oil Field Administrative Boundaries, as these projects have the potential to conflict with the conservation objectives of the Plan. The proposed projects Applicant is required to notify Wildlife Agencies about pursuant to this paragraph are collectively referred to as "Reportable Interim Projects." The Wildlife Agencies will review Reportable Interim Projects consistent with Section 6.6.3, and the Parties will coordinate regularly with respect to Reportable Interim Projects consistent with Section 6.6.4.

6.6.2. Notification Process

For Reportable Interim Projects, the Applicant will notify the Wildlife Agencies of the project (1) prior to the time, or as soon as possible after, the Applicant receives notification that the project application is deemed complete pursuant to Government Code Section 65943, or (2) the project is determined to have the potential to adversely impact covered species and natural communities or conflict with the preliminary conservation objectives contained in Section 5 of this Planning Agreement. The Applicant will notify the particular individuals designated by the Wildlife Agencies to be notified of Reportable Interim Projects, and will provide these designated individuals with (1) a depiction of the project location on a USGS 7.5 minute quadrangle map with the quadrangle name and section, township, and range identified; (2) a description of the project along with the land cover types present on the project site using the most current land cover data available to the Applicant; and (3) any other biological information about the project area that is available to the Applicant and necessary for Wildlife Agencies to conduct their review.

6.6.3. Wildlife Agency Review

The Wildlife Agencies will review Reportable Interim Projects in a timely manner and will use reasonable efforts to provide any comments on the projects to the Applicant within any applicable legally prescribed comment periods. The Wildlife Agencies will suggest conservation measures or project alternatives that will help the Applicant avoid take and achieve the preliminary conservation objectives and will not preclude important conservation planning options or connectivity between areas of high habitat values. The Applicant

will evaluate Wildlife Agency recommendations to ensure feasibility, consistency with project objectives, and consistency with measures required by other Public Agencies. If there are any issues with feasibility and/or consistency, the Applicant will discuss those with the Wildlife Agencies to identify alternative measures that would be feasible and consistent while still achieving the preliminary conservation objectives. Any take of listed or candidate species arising from a Reportable Interim Project must be authorized pursuant to applicable federal and/or state law.

6.6.4. Coordinating Interim Process with Plan Preparation

Representatives of the Parties will meet as needed to discuss Reportable Interim Projects and to coordinate with development of the Plan. Independent scientific input will be considered by the Parties during interim project review.

6.7. Protection of Habitat Land During Planning Process

6.7.1. Conservation Lands Acquired/Protected

The Parties may elect to preserve, enhance or restore, either by acquisition or other means (e.g., conservation easements; designated setbacks), lands in the Planning Area that contain native species of wildlife or natural communities prior to approval of the Plan. The Applicant will consult with the Wildlife Agencies regarding potential lands to be protected. The Wildlife Agencies agree to credit such lands toward the land acquisition or habitat protection requirements of the Plan as appropriate, provided the lands are permanently conserved and managed and contribute to the Plan's conservation strategy.

6.7.2. Mitigation Lands

Lands, or portions of lands, acquired or otherwise protected solely to mitigate the impacts of specific projects, actions, or activities approved prior to Plan approval will only be considered as mitigation for those projects, actions, or activities. Such lands will be considered during the Plan analysis, but will not count toward future mitigation obligations of the Plan.

6.8. Implementing Agreement

The NCCPA requires that any NCCP approved by CDFW include an Implementing Agreement that contains provisions for:

- conditions of species coverage;
- the long-term protection of habitat reserves and/or other conservation measures;
- implementation of mitigation and conservation measures;
- terms for suspension or revocation of the take permit;
- procedures for amendment of the Plan and IA;
- implementation of monitoring and adaptive management;
- oversight of plan effectiveness and funding; and
- periodic reporting.

While the Plan is being developed, the Parties will negotiate a draft Implementing Agreement that will satisfy the requirements of the NCCPA and ESA, and include specific provisions and procedures for the implementation, monitoring, and funding of the Plan. A draft of the Implementing Agreement will be made available for public review and comment with the final public review draft of the Plan.

7. Commitment of Resources

7.1. Funding

The Parties agree that they will work together to bring available funding to the planning effort.

7.1.1. Applicant Funding

The Applicant recognizes that, as the prospective applicant for state and federal permits, it has the primary responsibility for developing a plan that meets applicable legal requirements and that as a result, it must be the primary funder of the development and implementation of the Plan.

7.1.2. CDFW Assistance with Funding and CDFW Costs

CDFW agrees to cooperate with the other Parties in identifying and securing, where appropriate and available, federal and state funds earmarked for natural community conservation planning. CDFW shall be compensated by the Applicant in the amount of up to \$820,927.26 for the actual costs incurred in participating in the preparation and implementation of the Plan and other permitting and project review activities for the Applicant consistent with the Agreement for Contract Services between Applicant and CDFW (Agreement No. R1840004). A portion of these costs shall include compensation for consultation with Parties pursuant to this Planning Agreement, providing and compiling wildlife and habitat data, reviewing and approving the final Plan, and other activities necessary for the preparation and implementation of the Plan. This compensation does not include costs incurred should CDFW fulfill the role of CEQA Lead Agency. CDFW's commitments and obligations under this Planning Agreement are subject to the availability of appropriated funds and the written commitment of funds by an authorized CDFW representative.

7.1.3. USFWS Assistance with Funding

The USFWS agrees to cooperate with the other Parties in identifying and securing, where appropriate, federal and state funds earmarked for habitat conservation planning purposes. Potential federal funding sources may include: the USFWS' Cooperative Endangered Species Conservation Fund, Land and Water Conservation Fund, and land acquisition grants or loans through other federal agencies such as the Environmental Protection Agency, the Army Corps of Engineers, or the Departments of Agriculture or Transportation. The Parties acknowledge that this Planning Agreement does

not require any federal agency to expend its appropriated funds unless and until an authorized officer of that agency provides for such expenditures in writing.

7.2. Expertise of the Wildlife Agencies and DOC

Subject to funding and staffing constraints, the Wildlife Agencies and DOC agree to provide technical and scientific information, analyses, and advice to assist the Applicant with the timely and efficient development of the Plan.

8. Miscellaneous Provisions

8.1. Public Officials Not to Benefit

No member of or delegate to Congress will be entitled to any share or part of this Planning Agreement, or to any benefit that may arise from it.

8.2. Statutory Authority

The Parties will not construe this Planning Agreement to require any Party to act beyond, or in a manner inconsistent with, its statutory authority.

8.3. Multiple Originals

This Planning Agreement may be executed by the Parties in multiple originals, each of which will be deemed to be an official original copy.

8.4. Effective Date

The Effective Date of this Planning Agreement will be the date on which it is fully executed by CDFW and the Applicant. This Planning Agreement is effective as to each of the other Parties at the time that Party signs the Planning Agreement.

8.5. Duration

This Planning Agreement will be in effect until the Plan is approved and permitted by the Wildlife Agencies but shall not be in effect for more than five years following the Effective Date, unless extended by amendment. This Planning Agreement may be terminated pursuant to Section 8.7 below.

8.6. Amendments

This Planning Agreement can be amended only by written agreement of all Parties.

8.7. Termination and Withdrawal

Subject to the requirement in Section 8.7.1 of the Planning Agreement, any Party may withdraw from this Planning Agreement upon 30 days' written notice to the other Parties. The Planning Agreement will remain in effect as to all non-withdrawing Parties unless the remaining Parties determine that the withdrawal requires termination of the Planning Agreement. This Planning Agreement can be terminated only by written agreement of all Parties.

8.7.1. Funding

In the event that federal or State funds have been provided to assist with Plan preparation or implementation, any Party withdrawing from this Planning Agreement shall return to the granting agency unspent funds awarded to that Party prior to withdrawal. A withdrawing Party shall also provide the remaining Parties with a complete accounting of the use of any federal or State funds it received regardless of whether unspent funds remain at the time of withdrawal. In the event of termination of this Planning Agreement, all Parties who received funds shall return any unspent funds to the grantor prior to termination.

SIGNATURES:

Dated: _____, 20__

AERA ENERGY LLC

By: _____
Aimee Blaine, Senior Vice President

Dated: _____, 20__

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

By: _____
Chad Dibble, Deputy Director
Ecosystem Conservation Division

Dated: _____, 20__

US FISH AND WILDLIFE SERVICE

By: _____
Jennifer Norris, Field Supervisor
Sacramento Fish & Wildlife Office

Dated: _____, 20__

CALIFORNIA DEPARTMENT OF CONSERVATION

By: _____
David Shabazian, Director

Exhibit 1: Aera Energy Southwest San Joaquin Valley HCP/NCCP Planning Area Map

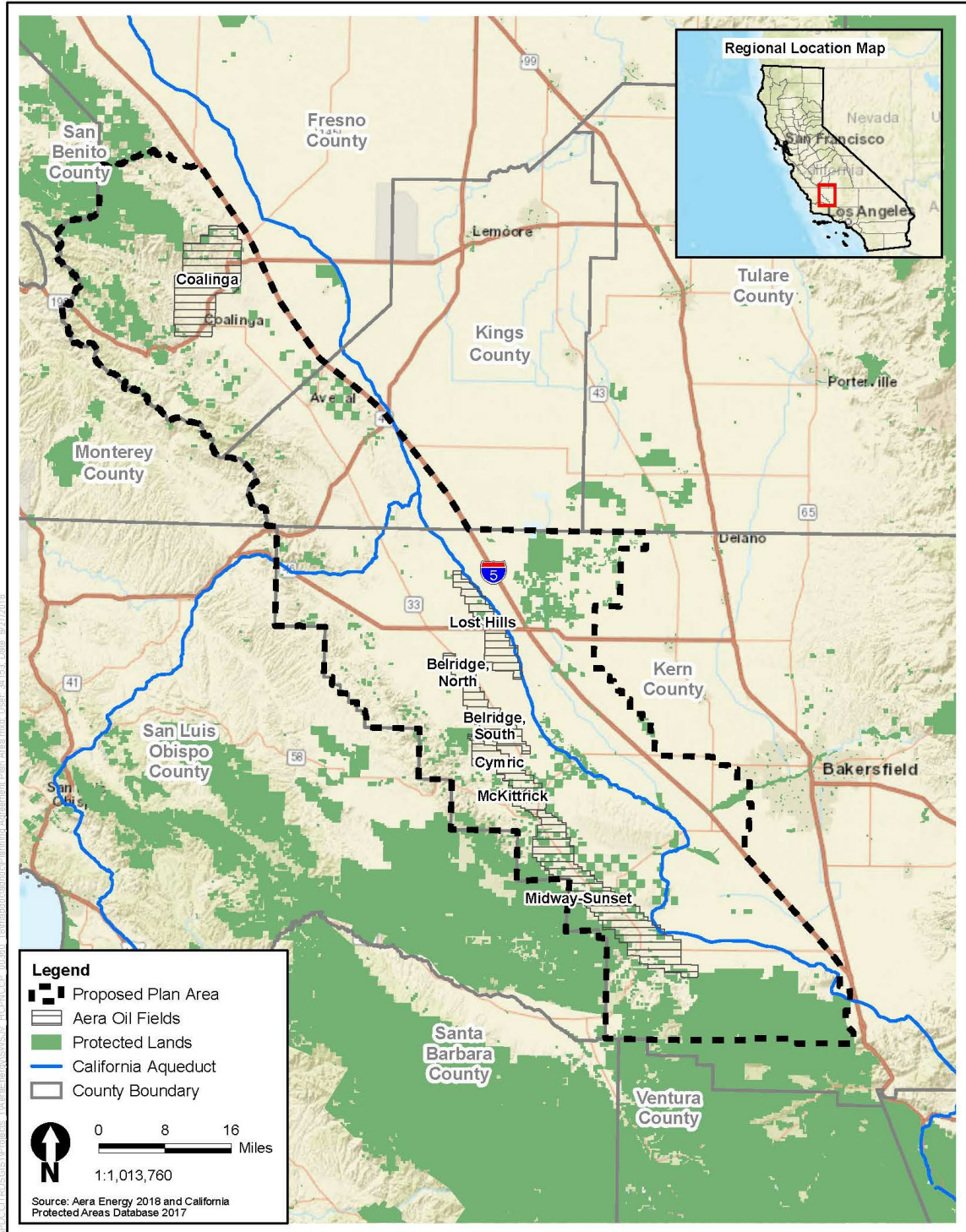


Exhibit 2: Description of Natural Communities and Preliminary List of Covered Species for the Aera Energy Southwest San Joaquin Valley HCP/NCCP

The Aera Energy Southwest San Joaquin Valley HCP/NCCP planning area (approximately 1.95 million acres) in Kern, Kings, and Fresno counties consists of a variety of natural and semi-natural communities. Natural communities are interspersed, especially in the eastern portion of the plan area, with agricultural land cover that includes vineyards, orchards, and row crops. Natural communities found in the planning area that are intended to be the initial focus of the plan include grassland, saltbush scrub, and valley sink scrub, which comprise most of the natural land cover in the plan area. Oak woodland, chaparral, coastal scrub, conifer forest, and valley-foothill riparian communities are also found in the planning area and will be considered in the plan. The endangered, threatened, candidate, or other sensitive species known, or reasonably expected to be found in the planning area that are intended to be the initial focus of the plan include, but are not limited to, those listed below.

Species	State/CRPR Status^a	Federal Status
Bakersfield cactus (<i>Opuntia treleasei</i>)	SE/1B.2	FE
California jewelflower (<i>Caulanthus californicus</i>)	SE/1B.1	FE
Kern mallow (<i>Eremalche kernensis</i>)	-/1B.2	FE
San Joaquin woolly-threads (<i>Monolopia [Lembertia] congdonii</i>)	-/1B.2	FE
Blunt-nosed leopard lizard (<i>Gambelia sila</i>)	SE, FP	FE
Burrowing owl (<i>Athene cunicularia</i>)	CSC	MBTA
Le Conte’s thrasher (<i>Toxostoma lecontei</i>)	CSC	MBTA
Swainson’s hawk (<i>Buteo swainsoni</i>)	ST	MBTA
American Badger (<i>Taxidea taxus</i>)	CSC	-
Buena Vista Lake shrew (<i>Sorex ornatus relictus</i>)	CSC	FE, CH
Giant kangaroo rat (<i>Dipodomys ingens</i>)	SE	FE
Tipton kangaroo rat (<i>Dipodomys nitratooides nitradooides</i>)	SE	FE
San Joaquin antelope squirrel (<i>Ammospermophilus nelsoni</i>)	ST	-
San Joaquin kit fox (<i>Vulpes macrotis mutica</i>)	ST	FE

^a Status	California Rare Plant Rank (CRPR)
State Status	1A = Presumed extinct in California
SE = state-listed as endangered	1B = Rare or endangered in California and elsewhere
ST = state-listed as threatened	.1 = Seriously threatened in California (over 80% of occurrences threatened/high degree and immediacy of threat)
FP = Fully Protected	.2 = Moderately threatened in California (20–80% of occurrences threatened/moderate degree and immediacy of threat)
CSC = California Species of Special Concern (July 2017 list)	
Federal Status	
MBTA = Migratory Bird Treaty Act	
FE = federally listed as endangered	
FT = federally listed as threatened	
CH = Critical habitat	