



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
(707) 428-2002  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**GAVIN NEWSOM, Governor**  
**CHARLTON H. BONHAM, Director**



November 18, 2020

Ms. Christine Borghei  
Recology Hay Road  
50 California Street, 24<sup>th</sup> Floor  
San Francisco, CA 94111-9796  
[CBorghei@recology.com](mailto:CBorghei@recology.com)

Subject: Incidental Take Permit for the Recology Hay Road Landfill Expansion Project,  
2081-2020-008-03, Solano County

Dear Ms. Borghei:

Enclosed you will find an electronic copy of the Incidental Take Permit for the above referenced project, which has been digitally signed by the California Department of Fish and Wildlife (CDFW). Please read the permit carefully and sign the acknowledgement on the permit **no later than 30 days from CDFW signature** and prior to initiation of ground-disturbing activities. You may return an electronic copy of the permit with digital signature to [CESA@wildlife.ca.gov](mailto:CESA@wildlife.ca.gov). Digital signatures shall comply with Government Code section 16.5. Alternatively, you may return a hard copy of the permit via mail to:

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

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

The permit will not take effect until the signed acknowledgment is received by CDFW. If you wish to discuss these instructions or have questions regarding the permit, please contact Ms. Melanie Day, Senior Environmental Scientist (Specialist), at [Melanie.Day@wildlife.ca.gov](mailto:Melanie.Day@wildlife.ca.gov); or Mr. Craig Weightman, Environmental Program Manager, at [Craig.Weightman@wildlife.ca.gov](mailto:Craig.Weightman@wildlife.ca.gov).

Sincerely,

DocuSigned by:  
A handwritten signature in blue ink that reads "Gregg Erickson".  
B574041D92C8045A  
Gregg Erickson  
Regional Manager  
Bay Delta Region

*Conserving California's Wildlife Since 1870*



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

California Endangered Species Act  
 Incidental Take Permit No. 2081-2020-008-03

### **Recology Hay Road Landfill Expansion Project**

#### **Authority:**

This California Endangered Species Act (CESA) Incidental Take Permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> 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:** Recology Hay Road

**Principal Officer:** Christine Borghei, Strategic Affairs & Planning Manager

**Contact Person:** Christine Borghei, (415) 875-1161

**Mailing Address:** 50 California Street, 24<sup>th</sup> Floor  
 San Francisco, CA 94111-9796

#### **Effective Date and Expiration Date of this ITP:**

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

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 7.8 of this ITP.

<sup>1</sup> Pursuant 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".])

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

**Project Location:**

The Recology Hay Road Landfill Expansion Project (Project) is located approximately eight miles southeast of the City of Vacaville at 6426 Hay Road within unincorporated Solano County (See Figure 1). The Project is located approximately 4 miles northeast of Travis Air Force Base at approximately Latitude 38.31133°, Longitude -121.83631°. The Project site is bounded by Hay Road to the north, State Route 113 to the east, Burke Lane to the west, and the Burke Ranch Conservation Bank to the south. The Assessor Parcel Numbers are 0042-020-060, 0042-020-280, and 0042-020-020.

**Project Description:**

The Project includes expanding capacity of the Recology Hay Road landfill which will result in extending the time that the landfill may accept waste products. This includes the lateral expansion of Recology Hay Road landfill into the Triangle Property (Figure 2), which is 16 acres of undeveloped land and 8 acres of disturbed landfill setback land in the southeastern portion of the property and an additional 6 acres of disturbed land along the western border of the property to expand the soil borrow pit. As part of the expansion into the Triangle Property, an existing 2,760-foot long drainage ditch consisting of 0.84 acres of freshwater emergent wetland and open water will be filled and a 1,325-foot long replacement drainage ditch providing 0.61 acres of aquatic habitat will be constructed on the southern border of the property. Within the Triangle Property, 4.82 acres of vernal pool habitat and 11.5 acres of associated grassland will be filled. Activities include grubbing and grading of the Triangle Property, installing a containment system to prevent groundwater contamination, removing vegetation, trench digging, excavation, constructing all-weather access roads, transporting soil across the Project site, dewatering the drainage ditch, filling the drainage ditch, constructing a 10-foot high perimeter berm, and other activities. Equipment that will be used during the Project includes bulldozers, backhoes, excavators, scrapers, front-end loaders, motor graders, haul trucks, roller/compactors, water trucks, winches, and others.

**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 <sup>3</sup>
2. Giant garter snake ( <i>Thamnophis gigas</i> )	Threatened <sup>4</sup>

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

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

<sup>4</sup> See *Id.*, subd. (b)(4)(E).

**Impacts of the Taking on Covered Species:**

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include: preparing the construction work areas, excavation, vegetation clearing, grading, vehicle movement, placement of fill, dewatering, and capturing, handling, and relocating the Covered Species (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as grading and grubbing the Triangle Property, removing emergent and bankside vegetation along the channel, dewatering and filling the channel, excavating the new channel, and vehicular traffic associated with the Project. 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 capture and relocation of the Covered Species. The areas where authorized take of the Covered Species is expected to occur include: the Triangle Property, the vegetated drainage ditch, and a 50-foot buffer around the perimeter of the Triangle Property (collectively, the Project Area).

The Project is expected to cause the permanent loss of 11.5 acres of California tiger salamander upland habitat, 4.82 acres of California tiger salamander breeding habitat, and 1.43 acres of giant garter snake habitat, and the temporary loss of 0.61 acres of giant garter snake 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, vibrations, and light from the Covered Activities, stress or injury resulting from capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, changes to hydrology, and increased vulnerability to predation.

**Incidental Take Authorization of Covered Species:**

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered 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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Incidental Take Permit  
No. 2081-2020-008-03  
RECOLOGY HAY ROAD  
RECOLOGY HAY ROAD LANDFILL EXPANSION PROJECT

## 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 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 (SCH No.: 2018032031) certified by Solano County on June 4, 2020 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 (LSA) Agreement (Notification No. 1600-2020-0065-R3) for the Project when 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 Recology Hay Road Landfill Expansion Project, Solano County, California; Corps File Number SPK-1992-00584 (08ESMF00-2017-F-2309-2) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
6. **General Provisions:**
  - 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

- 6.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting, and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- 6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 6.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 6.5. Construction Monitoring Binder. The Designated Biologist shall maintain a construction-monitoring binder 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 binder 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. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.12. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.
- 6.13. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or

as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.

- 6.14. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.15. Dogs. Permittee shall prohibit domestic dogs from the Project Area and site access routes during Covered Activities, except dogs in the possession of authorized security personnel or local, state, or federal law enforcement officers.
- 6.16. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.
- 6.17. Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention Best Management Practices (BMPs) and guidelines for invasive plants can be found on the California Invasive Plant Council's (Cal-IPC) website at: <https://www.cal-ipc.org/solutions/prevention/> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <https://stopaquatic hitchhikers.org/>.

## **7. Monitoring, Notification, and Reporting Provisions:**

- 7.1. Geographic Information Systems Data Files. Before starting Covered Activities, the Permittee shall provide CDFW with separate Geographic Information Systems (GIS) data files for permanent habitat impact areas authorized under this ITP for the Covered Species, or confirm GIS files previously submitted to CDFW. The Permittee shall provide any additional GIS data files for the Project or related Covered Species features within 30 days of CDFW's request. All GIS data files shall be provided in a format acceptable to CDFW.
- 7.2. 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.
- 7.3. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or



anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.

- 7.4. 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 a month during periods of inactivity and after clearing, grubbing, excavation, filling, and grading are completed.
- 7.5. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.4 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Amanda Culpepper ([Amanda.Culpepper@wildlife.ca.gov](mailto:Amanda.Culpepper@wildlife.ca.gov)) and Headquarters CESA Program email is [CESA@wildlife.ca.gov](mailto:CESA@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 7.6. 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 7.5; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) information about

other Project impacts on the Covered Species; and (7) Vegetation Restoration Plan status reports as identified in Condition of Approval 9.6.

- 7.7. 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.
- 7.8. 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.
- 7.9. Notification of Non-Native Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a suspected barred tiger salamander (*Ambystoma tigrinum mavortium*) or California tiger salamander x non-native salamander hybrid is found within the Project Area within 24 hours by calling the Regional Office at (707) 428-2002 or [Amanda.Culpepper@wildlife.ca.gov](mailto:Amanda.Culpepper@wildlife.ca.gov). CDFW and Permittee shall consult to determine measures to address non-native or hybrid populations.
- 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 (707) 428-2002 or [Amanda.Culpepper@wildlife.ca.gov](mailto:Amanda.Culpepper@wildlife.ca.gov). 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.

If the Covered Species is found recently deceased, a 0.5-inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95 percent ethanol. The remaining carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to CDFW Bay Delta Region, Attention: Marcia Grefsrud, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534. The remaining carcasses shall be delivered to the CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road Suite D, Rancho Cordova, CA 95670 within two calendar days of the discovery.

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

8.1. Seasonal Work Period. Unless approved by CDFW, all Covered Activities within giant garter snake habitat will occur during their active season, between May 1 and October 1, and all Covered Activities within California tiger salamander habitat shall occur during their non-breeding season, between June 15 and October 15. Giant garter snake habitat includes the drainage ditch and a 200-foot buffer from the bank within the Triangle Property. California tiger salamander habitat includes the entirety of the Triangle Property.

The work period may be modified in writing on a week-by-week basis by a CDFW representative. Requests for a work period extension shall: (1) describe the extent of work already completed; (2) detail the activities that remain to be completed; (3) detail the time required to complete each of the remaining activities; (4) provide photographs of both the current work completed and the proposed site for continued work; (5) include National Weather Service 7-day forecast of nightly temperature lows, which should remain above 45°F; and (6) include an assessment of additional biological impacts as a result of the work extension. An extension of the period may require an Amendment if additional impacts to Covered Species will occur.

8.2. Wet Weather Work Restriction. Permittee or the Designated Biologist shall consult the 72-hour weather forecast from the National Weather Service (NWS) prior to the start of ground disturbing activities. Ground disturbing activities shall not begin unless a no precipitation forecast is obtained covering the entire Project Area and necessary erosion control measures are implemented (see Condition of Approval 8.3). The Designated Biologist shall keep precipitation records on-site, and these records shall be subject to CDFW inspection.

- If a 40 percent or greater chance of rain is forecasted, then ground disturbing activities shall cease 24 hours prior to the forecasted rain, unless otherwise approved in writing by CDFW.

Incidental Take Permit  
No. 2081-2020-008-03  
RECOLOGY HAY ROAD  
RECOLOGY HAY ROAD LANDFILL EXPANSION PROJECT

- If ground-disturbing activities are approved by CDFW as described above, the Designated Biologist shall survey the work area before construction begins each day rain is forecast. If rain exceeds 0.25 inches during a 24-hour period, ground-disturbing activities shall cease.
- Twenty-four hours after the rain ceases and once there is no precipitation in the 24-hour forecast, ground disturbing activities may continue.

- 8.3. Erosion Control Habitat Protection. Permittee shall install erosion controls to ensure sediment and other materials from the Project Area do not wash onto Covered Species habitat located adjacent to the Project Area. Erosion control fencing shall be installed between the Project Area and adjacent habitat. Soil stockpiles shall be placed where soil cannot not wash onto habitat, and active and non-active spoil piles shall be stabilized with native grass hydro-seed, erosion control fabric, straw, or other biodegradable material by October 15 of each year of the Project. Plastic and other synthetic materials shall not be used. Fiber rolls and a Covered Species temporary barrier shall be placed around the perimeter of non-active spoil piles, and slope breaks shall be utilized on the slopes of non-active spoil piles. Active spoil piles shall be covered/stabilized adequately when rainy conditions are evident (see Condition of Approval 8.2) or at any time when spoil material could enter Covered Species terrestrial or aquatic habitat.
- 8.4. Time of Day Work Restriction. Permittee shall terminate all Covered Activities 30 minutes before sunset and shall not resume Covered Activities until 30 minutes after sunrise. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area to identify when Covered Activities shall terminate and resume. All lighting shall be turned off thirty (30) minutes prior to sunset, unless required for safety or security purposes.
- 8.5. Covered Species Temporary Barrier. Permittee shall provide a Covered Species Temporary Barrier Plan a minimum of 30 days prior to commencing Covered Activities for approval in writing by CDFW. Permittee shall install and maintain temporary barriers to prevent Covered Species from moving into the Project Area. Prior to any ground disturbing Covered Activities and under the direct supervision of the Designated Biologist, Permittee shall install a temporary barrier to prevent the Covered Species from dispersing into the Project Area, unless otherwise approved in writing by CDFW. The barrier will be constructed with solid poly fabric Animex AMX 40/1015 or equivalent material approved by CDFW. The lower portion of the barrier will be buried to a depth of at least 6 inches. Posts/stakes will be placed on the inner side of the barrier within the Project Area. The barrier shall be designed to allow Covered Species to leave the Project Area using a one-way funnel at 200-foot intervals along the barrier, or other method approved in writing by CDFW. The barrier shall remain in place until Covered Activities are completed, including during periods

of inactivity. The Permittee shall maintain and repair the barrier continuously to ensure that it is functional and without defects. Permittee shall provide refuge opportunities, such as coverboards (2-foot x 2-foot plywood), at 100-foot intervals on each side, and a climbing barrier at the top of the temporary barrier. The Designated Biologist shall check temporary Covered Species barriers and refuge areas daily during Covered Activities and before, during, and following storm events or periods of 70 percent or greater humidity, and weekly, during periods of Project inactivity. Animals found within the interior of the barrier shall be relocated outside of the barrier as described in the Covered Species Relocation Plan (see Condition of Approval 8.11).

- 8.6. California Tiger Salamander Permanent Barrier. Permittee shall provide a California Tiger Salamander Permanent Barrier Plan a minimum of 30 days prior to commencing Covered Activities for approval in writing by CDFW. The Permittee shall install a permanent 12-inch high impenetrable barrier between the impacted area and adjacent habitat. The permanent barrier shall be installed after grading and stabilizing activities have been completed and prior to landfill use of the Triangle Property, unless otherwise approved in writing by CDFW. Permittee shall design the barrier to prevent Covered Species from climbing over it or under it through burrows or cracks. The Permittee shall ensure the permanent barrier is monitored and maintained. The barrier shall be inspected annually prior to October 1 and all damages to the barrier shall be repaired immediately. Permittee shall ensure that permanent barriers installed between landfill areas and California tiger salamander habitat are maintained until the landfill is closed and the site is returned to natural habitat.
- 8.7. Temporary Impacts. To be considered a temporary impact, Permittee shall re-create aquatic giant garter snake habitat by October 15 of the year of the impact, unless otherwise approved in writing by CDFW. Temporarily impacted aquatic habitat must be connected to adjacent aquatic habitat, contain appropriate wetland emergent vegetation, and contain low-growing bankside cover habitat (see Condition of Approval 9.6). Impacted areas that do not meet these requirements will be considered permanent impacts, an Amendment will be required, and additional Habitat Management Lands or mitigation bank credits pursuant to Condition of Approval 9 may be required.
- 8.8. Personnel Restriction. Permittee shall ensure that all construction activities and personnel, including subcontractors, are restricted to the active construction area surrounded by the Covered Species temporary barrier and public roads.
- 8.9. Covered Species Equipment Checks. Permittee shall inspect all vehicles and equipment stored outside of the Covered Species temporary barrier near the Project Area every day prior to Covered Activities. Permittee shall inspect beneath and under equipment and vehicles prior to moving them. If Covered Species are present, the Permittee shall inform the Designated Biologist and equipment shall not be operated until the Covered Species leaves of its own accord or the Designated

Biologist relocates the Covered Species in accordance with Condition of Approval 8.11. Permittee shall inform the Designated Biologist if Covered Species are encountered within or near the Project Area during any phase of the Project.

- 8.10. Pre-Construction Surveys. The Designated Biologist shall complete walking surveys of the Project Area prior to any initial ground disturbing activity and shall follow earthmoving equipment to look for Covered Species during initial site grading and other ground disturbing activities. Areas to be surveyed shall include suitable habitat features for the Covered Species such as aquatic and upland areas as well as under woody or other debris. Pre-construction surveys shall be conducted in conjunction with Covered Species temporary barrier installation. If a Covered Species is discovered, the Designated Biologist shall move the animal to a safe nearby location (e.g., mouth of mammal burrow or soil crevice outside of the Project area) and monitor it until it is determined that the animal is not imperiled by predators or other dangers (see Condition of Approval 8.11).
- 8.11. Covered Species Relocation Plan. Permittee shall submit a Covered Species Relocation Plan (Relocation Plan) using Attachment 2 as a reference, a minimum of 30 days prior to the commencement of Covered Activities for approval in writing by CDFW. The Designated Biologist shall follow this Relocation Plan to install the Covered Species temporary barrier (see Condition of Approval 8.5); install any pitfall traps, cover boards, and drift fence arrays; check any pitfall traps and cover boards according to the rainfall-dependent schedule; and relocate captured Covered Species adults, juveniles, and larva to a suitable site.
- 8.12. Covered Species Capture and Handling. Covered Species may only be captured and handled by the Designated Biologist. The Designated Biologist shall determine whether the animal should be captured and handled, or, avoided and allowed to leave of its own volition. The Designated Biologist(s) shall minimize capture and handling to the extent feasible as most Covered Species experience stress in response to capture and short-term confinement. All capture and handling shall be in accordance with the Covered Species Relocation Plan (Condition of Approval 8.11).
- 8.13. Open Pipe Restriction. All pipes, culverts, or similar structures that are stored in the Project Area vertically or horizontally for one or more overnight periods shall be securely capped on both ends prior to storage and thoroughly inspected for wildlife prior to installation by the Designated Biologist. All hollow pipes or posts installed as part of the Project and exposed to the environment shall be capped, screened, or filled with material by Permittee prior to the end of the workday in which installation occurs.
- 8.14. Trench Escape and Inspection. The Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning of each working day for trapped animals. To prevent inadvertent entrapment of Covered Species, the Designated Biologist shall oversee the covering of all trenches, holes, sumps, or

other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material at the close of each working day such that Covered Species are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. If covering cannot be provided, then escape ramps constructed of earthen fill or wooden planks shall be installed at the end of each working day.

Each morning prior to beginning Covered Activities and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist shall thoroughly inspect them for Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist immediately if any worker discovers that Covered Species have become trapped. If at any time a trapped Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per the Covered Species Relocation Plan described in Condition of Approval 8.11.

- 8.14.1. If the open holes, sumps, trenches, or excavations cannot be covered and escape ramps cannot be installed, then a Covered Species temporary barrier shall be installed around the feature to prevent Covered Species from becoming trapped. Refuge opportunities, such as coverboards shall be provided on the outside perimeter of the barrier.

8.15. Disposal of Vegetative Debris. Permittee shall immediately haul natural debris composed of vegetation off-site for disposal.

8.16. Channel Dry-Out Period. Permittee shall ensure that the dewatered drainage ditch remains dry for a minimum of 15 days prior to excavating or filling the habitat. During dry-out, the Designated Biologist shall inspect the drainage ditch and prevent Covered Species entrapment pursuant to Condition of Approval 8.14.

8.17. Burrow Protection. The Designated Biologist shall mark for avoidance all small mammal burrows and deep soil crevices with flagging at the limits of access areas, including vehicle routes and staging areas.

8.18. Pesticides Prohibited. Permittee shall ensure that rodenticides or other poisons used in the control of fossorial (burrow-dwelling) mammals, and herbicides, are not used within the Project Area during the term of this ITP unless otherwise approved in writing by CDFW.

**8.19. Covered Species Injury.** If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall evaluate the individual and shall immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps pursuant to Condition of Approval 7.10. If the CDFW Regional Representative cannot be contacted immediately, the injured Covered Species shall be placed in a container with appropriate conditions. If the CDFW Regional Representative is not available or has not responded within two hours of initial attempts, then the following steps shall be taken by the Designated Biologist:

- 8.19.1. If the injury is minor or healing and the individual is likely to survive, the individual shall be released immediately in accordance with the Condition of Approval 8.11.
- 8.19.2. If it is determined that the Covered Species has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum or another CDFW approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and the U.S. Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed, and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.10.

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

To meet this requirement, the Permittee shall purchase either 34.5 acres of California tiger salamander upland habitat credits, 14.46 acres of California tiger salamander breeding habitat credits, and 3.09 acres of giant garter snake credits from a CDFW-approved mitigation or conservation bank(s) (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of 52.05 acres of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, 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. The Permittee shall also restore on-site 0.61 acres of temporarily impacted giant garter snake habitat pursuant to Condition of Approval 9.6 below.

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Incidental Take Permit  
No. 2081-2020-008-03  
RECOLOGY HAY ROAD  
RECOLOGY HAY ROAD LANDFILL EXPANSION PROJECT



- 9.1. Cost Estimates. CDFW has estimated the cost of the purchase of credits at a conservation or mitigation bank OR acquisition, protection, and perpetual management of HM lands, and restoration of temporarily disturbed habitat at \$1,129,748.75, as shown below:
- 9.1.1. Purchase of giant garter snake credits as described in Condition of Approval 9.2, calculated at \$65,000.00 per acre for 3.09 acres: **\$200,850.00**
  - 9.1.2. Purchase of California tiger salamander upland habitat credits as described in Condition of Approval 9.2, calculated at \$18,500.00 per acre for 34.5 acres: **\$638,250.00**
  - 9.1.3. Purchase of California tiger salamander breeding habitat credits as described in Condition of Approval 9.2, calculated at \$20,000.00 per acre for 14.46 acres: **\$289,200.00**
  - 9.1.4. Restoration of on-site temporary effects to giant garter snake habitat as described in Condition of Approval 9.6, calculated at \$2,375.00 per acre for 0.61 acres: **\$1,448.75.**
- 9.2. Covered Species Credits. Permittee shall purchase 34.5 acres of California tiger salamander upland habitat credits, 14.46 acres of California tiger salamander breeding habitat credits, and 3.09 acres of giant garter snake credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below.

OR:

- 9.3. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:
- 9.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be

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Incidental Take Permit  
No. 2081-2020-008-03  
RECOLOGY HAY ROAD  
RECOLOGY HAY ROAD LANDFILL EXPANSION PROJECT

expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);

- 9.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 9.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 9.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;
- 9.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates>) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 9.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The

interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

- 9.4. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

- 9.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether

the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;

9.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

9.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.

9.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

9.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

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

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

- 9.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.
- 9.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.
- 9.6. Habitat Restoration. Permittee shall prepare a Vegetation Restoration Plan (VRP) to restore on-site the 0.61 acres of giant garter snake habitat that will be temporarily disturbed during construction to pre-Project or better conditions. The VRP shall be submitted to CDFW for review and approval within 6 months of issuance of this ITP, or a minimum of 2 months prior to restoration activities, whichever is sooner. The VRP shall identify plant species damaged or removed during the Covered Activities. Permittee shall plant replacement vegetation the first suitable season after construction is complete. The VRP shall include planting layout design with sufficient space appropriate for each species. The VRP shall include measures the Permittee will implement (e.g., irrigation methods, weed management, maintenance, and replanting if necessary) to ensure a minimum of 70 percent survivorship for 5 years. Permittee shall provide an annual status report to CDFW by January 31 of each year including wildlife found at the Project Area, survival and percent cover of the revegetation effort, and the method used to assess these parameters (Condition of Approval 7.6). Recommended plantings consist of a mix of the following:
- 9.6.1. Wetland Emergent. Native emergent wetland plants recommended for giant garter snake habitat are hardstem bulrush (*Schoenoplectus acutus*) and California bulrush (*Schoenoplectus californicus*). Additional native wetland plantings may include cattail (*Typha* spp.) excluding the non-native narrow leaf cattail (*Typha angustifolia*) or Baltic rush (*Juncus balticus*).
- 9.6.2. Low Growing Cover on or Adjacent to Banks. Cover Species on or adjacent to the bank should include native grasses and forbs described in the hydroseeding mix below. Additional cover may include California blackberry (*Rubus ursinus*) or California wild grape (*Vitis californica*).
- 9.6.3. Upland Plantings/Hydroseeding Mix. Permittee shall hydroseed disturbed soil surfaces such as berm slopes with native grass and forb seeds. The seed mix

shall be composed of a mix of the following: California brome (*Bromus carinatus*), blue wildrye (*Elymus glaucus*), purple needle grass (*Stipa pulchra*), native clover (*Tirfolium* spp.), or a native mix approved in writing by CDFW. Permittee shall not seed or otherwise introduce aggressive or non-native grasses such as perennial ryegrass (*Festuca perennis*), cheatgrass (*Bromus tectorum*), giant reed (*Arundo donax*), medusa head (*Elymus caput-medusae*), or Pampas grass (*Cortaderia selloana*).

Permittee shall not plant riparian trees or other plants that would cause shading and reduce basking sites for giant garter snakes.

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

- 10.1. Security Amount. The Security shall be in the amount of **\$1,129,748.75**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 10.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
  - Receipt of executed copies of Bill(s) of Sale; and
  - Receipt of executed copies of Payment Receipt(s).

OR

- 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.

AND

- Restoration of 0.61 acres of giant garter snake habitat on-site.

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

#### **Amendment:**

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

#### **Stop-Work Order:**

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

### **Compliance with Other Laws:**

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

### **Notices:**

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

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

Alternatively, the Permittee shall email the digitally signed ITP to [CESA@wildlife.ca.gov](mailto:CESA@wildlife.ca.gov). Digital signatures shall comply with Government Code section 16.5.

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or 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 (2081-2020-008-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Gregg Erickson, Regional Manager  
California Department of Fish and Wildlife – Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
[R3CESA@wildlife.ca.gov](mailto:R3CESA@wildlife.ca.gov)

and a copy to:

Habitat Conservation Planning Branch  
California Department of Fish and Wildlife  
Attention: CESA Permitting Program  
Post Office Box 944209  
Sacramento, CA 94244-2090  
[CESA@wildlife.ca.gov](mailto:CESA@wildlife.ca.gov)

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

Incidental Take Permit  
No. 2081-2020-008-03  
RECOLOGY HAY ROAD  
RECOLOGY HAY ROAD LANDFILL EXPANSION PROJECT



Amanda Culpepper, Environmental Scientist  
 California Department of Fish and Wildlife – Bay Delta Region  
 2825 Cordelia Road, Suite 100  
 Fairfield, CA 94534  
 Telephone: (707) 428-2075  
[Amanda.Culpepper@wildlife.ca.gov](mailto:Amanda.Culpepper@wildlife.ca.gov)

### **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, Solano County. (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Final Subsequent Environmental Impact Report (EIR) (SCH No.: 2018032031) dated April 15, 2020 that Solano County certified for the Recology Hay Road Landfill Land Use Permit Amendment No. 2 on June 4, 2020. 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 and Game Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds, (a)-(b), 783.5, subd. (c)(2)].

CDFW finds based on substantial evidence in the ITP application, Final Subsequent EIR for the Recology Hay Road Landfill Land Use Permit Amendment No. 2, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;

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Incidental Take Permit  
 No. 2081-2020-008-03  
 RECOLOGY HAY ROAD  
 RECOLOGY HAY ROAD LANDFILL EXPANSION PROJECT

- (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) purchase of Covered Species credits; (2) restoration of temporarily disturbed giant garter snake habitat; (3) establishment of avoidance zones; (4) worker education; and (5) 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 48.96 acres of California tiger salamander and 3.09 acres of giant garter snake compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) 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
- (7) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

#### **Attachments:**

FIGURE 1	Project Location Map
FIGURE 2	Project Impacts Map

ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Covered Species Handling
ATTACHMENT 3A, 3B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

**ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

on 11/20/2020.

DocuSigned by:

*Gregg Erickson*  
BE7AD4C93C604EA

Gregg Erickson, Regional Manager  
Bay Delta Region

**ACKNOWLEDGMENT**

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

DocuSigned by:

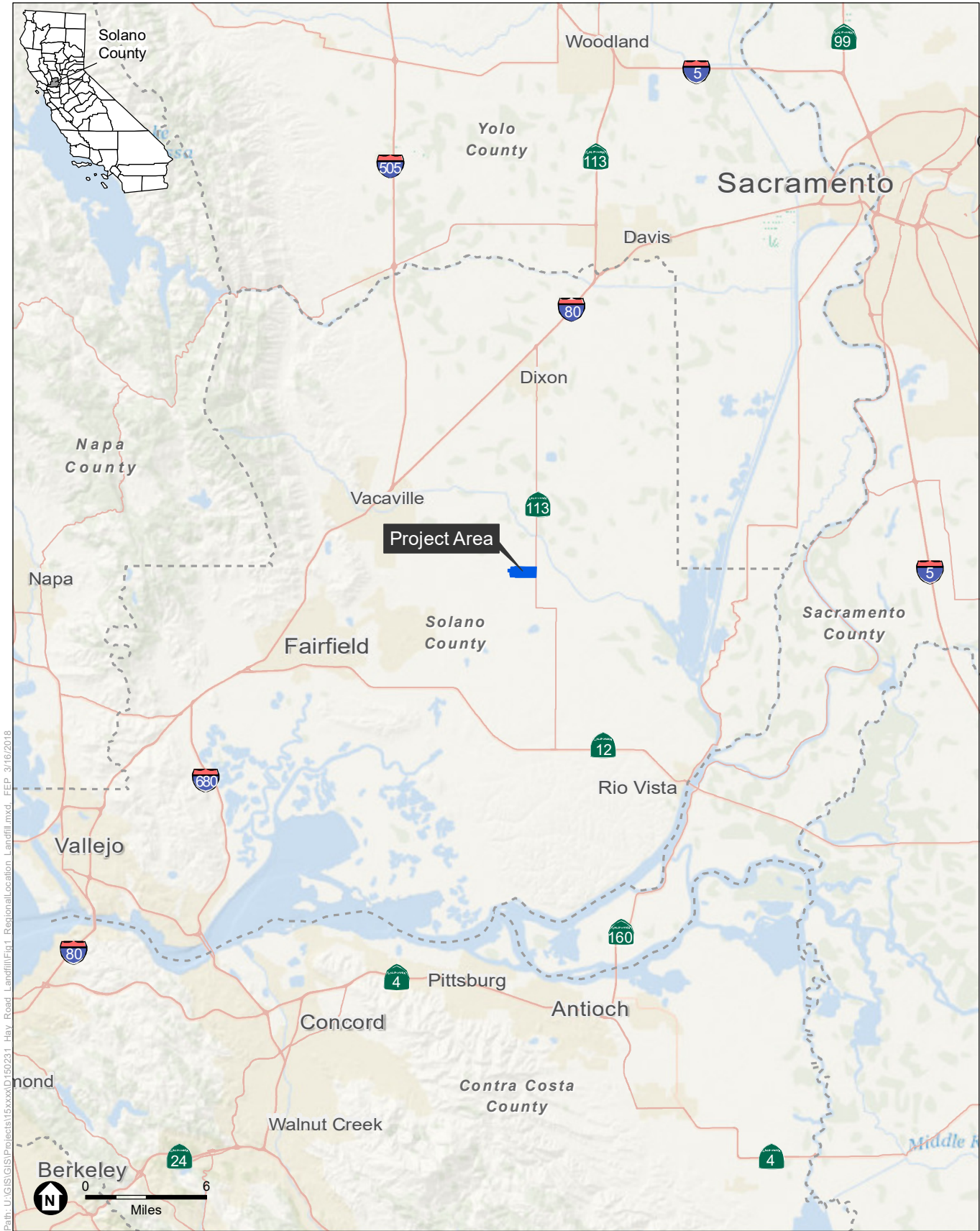
By: *Christine Borghei*  
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Date: 1/5/2021

Printed Name: Christine Borghei

Title: Environmental Planning Manager

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No. 2081-2020-008-03  
RECOLOGY HAY ROAD  
RECOLOGY HAY ROAD LANDFILL EXPANSION PROJECT



SOURCE: Esri, 2012; ESA, 2018

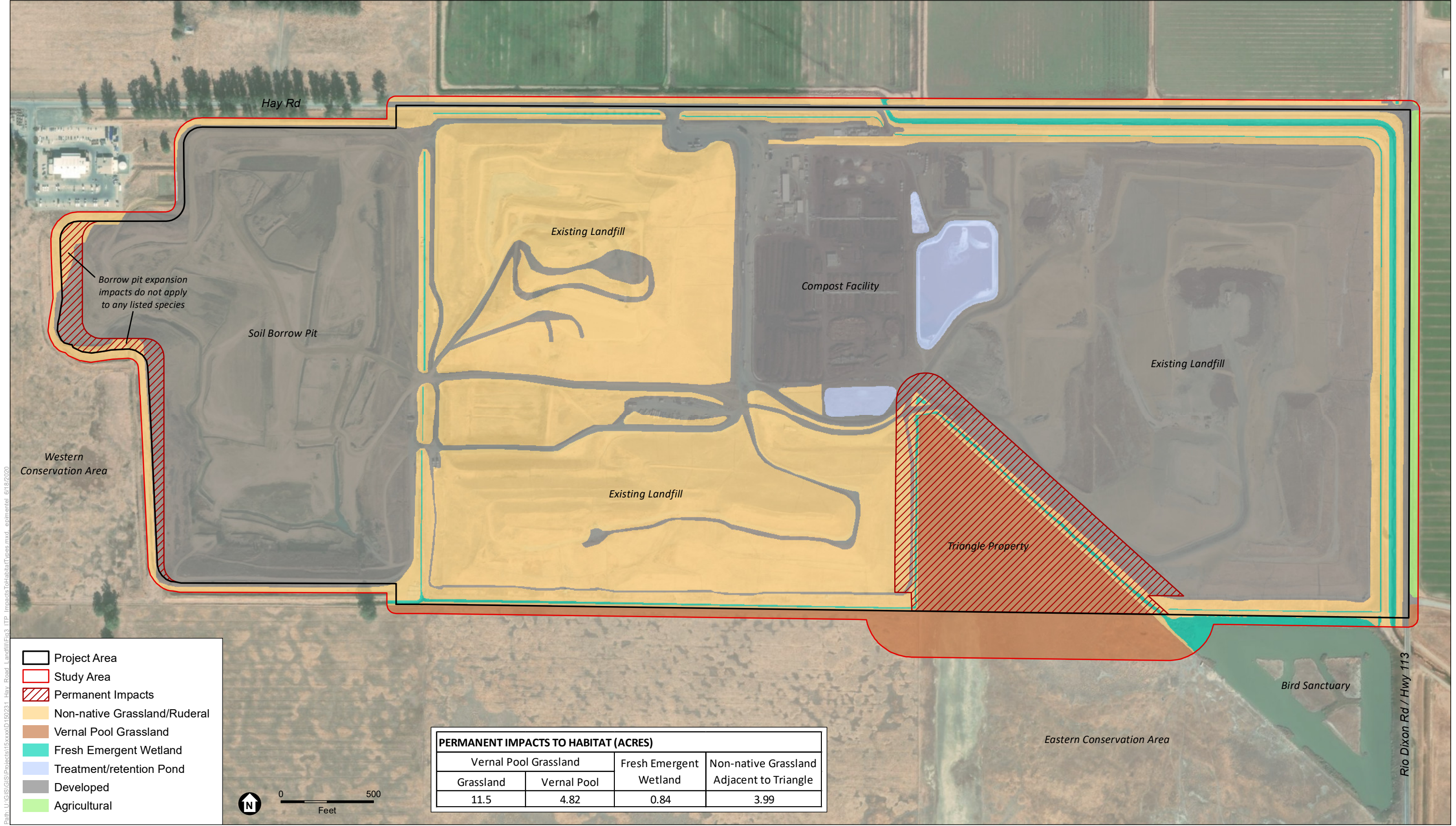
Recology Hay Road Landfill

**Figure 1**

Regional Location







SOURCE: USDA, 2018; ESA, 2020

NOTE: Proposed increase in depth of the Soil Borrow Pit will occur within the previously permitted Soil Borrow Pit footprint, and does not represent a new area of ground disturbance.

Recology Hay Road Landfill

**Figure 3**  
Impacts to Habitat Types in the Study Area



**Attachment 1**

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

**INCIDENTAL TAKE PERMIT NO. 2081-2020-008-03**

**PERMITTEE:**           **Recology Hay Road**

**PROJECT:**           **Recology Hay Road Landfill Expansion Project**

**PURPOSE OF THIS MMRP**

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

**OBLIGATIONS OF PERMITTEE**

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

**VERIFICATION OF COMPLIANCE, EFFECTIVENESS**

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

**TABLE OF MITIGATION MEASURES**

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<b>BEFORE DISTURBING SOIL OR VEGETATION</b>				
1.	Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2.	Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting, and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 6.2	30 days before commencing ground- or vegetation-disturbing activities	Permittee	
3.	Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee and Designated Biologist	
4.	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.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5.	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.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6.	Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

7.	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.	ITP Condition # 6.14	Before commencing ground- or vegetation-disturbing activities/ Entire Project/Post-Project	Permittee	
8.	Geographic Information Systems Data Files. Before starting Covered Activities, the Permittee shall provide CDFW with separate Geographic Information Systems (GIS) data files for permanent habitat impact areas authorized under this ITP for the Covered Species, or confirm GIS files previously submitted to CDFW. The Permittee shall provide any additional GIS data files for the Project or related Covered Species features within 30 days of CDFW's request. All GIS data files shall be provided in a format acceptable to CDFW.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
9.	Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 7.2	14 days before commencing ground- or vegetation-disturbing activities	Designated Representative	
10.	Covered Species Temporary Barrier. Permittee shall provide a Covered Species Temporary Barrier Plan a minimum of 30 days prior to commencing Covered Activities for approval in writing by CDFW. Permittee shall install and maintain temporary barriers to prevent Covered Species from moving into the Project Area. Prior to any ground disturbing Covered Activities and under the direct supervision of the Designated Biologist, Permittee shall install a temporary barrier to prevent the Covered Species from dispersing into the Project Area, unless otherwise approved in writing by CDFW. The barrier will be constructed with solid poly fabric Animex AMX 40/1015 or equivalent material approved by CDFW. The lower portion of the barrier will be buried to a depth of at least 6 inches. Posts/stakes will be placed on the inner side of the barrier within the Project Area. The barrier shall be designed to allow Covered Species to leave the Project Area using a one-way funnel at 200-foot intervals along the barrier, or other method approved in writing by CDFW. The barrier shall remain in place until Covered Activities are completed, including during periods of inactivity. The Permittee shall maintain and repair the barrier continuously to ensure that it is functional and without defects. Permittee shall provide refuge opportunities, such as coverboards (2-foot x 2-foot plywood), at 100-foot intervals on each side, and a climbing barrier at the top of the temporary barrier. The Designated Biologist shall check temporary Covered Species barriers and refuge areas daily during Covered Activities and before, during, and following storm events or periods of 70 percent or greater humidity, and weekly, during periods of Project inactivity. Animals found within the interior of the barrier shall be relocated outside of the barrier as described in the Covered Species Relocation Plan (see Condition of Approval 8.11).	ITP Condition # 8.5	30 days before commencing ground- or vegetation-disturbing activities	Permittee	
11.	California Tiger Salamander Permanent Barrier. Permittee shall provide a California Tiger Salamander Permanent Barrier Plan a minimum of 30 days prior to commencing Covered Activities for approval in writing by CDFW. The Permittee shall install a permanent 12-inch high impenetrable barrier between the impacted area and adjacent habitat. The permanent barrier shall be installed after grading and stabilizing activities have been completed and prior to landfill use of the Triangle Property, unless otherwise approved in writing by CDFW. Permittee shall design the barrier to prevent Covered Species from climbing over it or under it through burrows or cracks. The Permittee shall ensure the permanent barrier is monitored and maintained. The barrier shall be inspected annually prior to October 1 and all damages to the barrier shall be repaired immediately. Permittee shall ensure that permanent barriers installed between landfill areas and California tiger salamander habitat are maintained until the landfill is closed and the site is returned to natural habitat.	ITP Condition # 8.6	30 days before commencing ground- or vegetation-disturbing activities	Permittee	



12.	Pre-Construction Surveys. The Designated Biologist shall complete walking surveys of the Project Area prior to any initial ground disturbing activity and shall follow earthmoving equipment to look for Covered Species during initial site grading and other ground disturbing activities. Areas to be surveyed shall include suitable habitat features for the Covered Species such as aquatic and upland areas as well as under woody or other debris. Pre-construction surveys shall be conducted in conjunction with Covered Species temporary barrier installation. If a Covered Species is discovered, the Designated Biologist shall move the animal to a safe nearby location (e.g., mouth of mammal burrow or soil crevice outside of the Project area) and monitor it until it is determined that the animal is not imperiled by predators or other dangers (see Condition of Approval 8.11).	ITP Condition # 8.10	Before commencing ground- or vegetation-disturbing activities	Designated Biologist	
13.	Covered Species Relocation Plan. Permittee shall submit a Covered Species Relocation Plan (Relocation Plan) using Attachment 2 as a reference, a minimum of 30 days prior to the commencement of Covered Activities for approval in writing by CDFW. The Designated Biologist shall follow this Relocation Plan to install the Covered Species temporary barrier (see Condition of Approval 8.5); install any pitfall traps, cover boards, and drift fence arrays; check any pitfall traps and cover boards according to the rainfall-dependent schedule; and relocate captured Covered Species adults, juveniles, and larva to a suitable site.	ITP Condition # 8.11	30 days before commencing ground- or vegetation-disturbing activities	Permittee	
14.	Burrow Protection. The Designated Biologist shall mark for avoidance all small mammal burrows and deep soil crevices with flagging at the limits of access areas, including vehicle routes and staging areas.	ITP Condition # 8.17	Before commencing ground- or vegetation-disturbing activities	Designated Biologist	
15.	Habitat Management Land Acquisition and Restoration: CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.  To meet this requirement, the Permittee shall purchase either 34.5 acres of California tiger salamander upland habitat credits, 14.46 acres of California tiger salamander breeding habitat credits, and 3.09 acres of giant garter snake credits from a CDFW-approved mitigation or conservation bank(s) (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of 52.05 acres of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, 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. The Permittee shall also restore on-site 0.61 acres of temporarily impacted giant garter snake habitat pursuant to Condition of Approval 9.6 below.	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities, or no later than 18 months from ITP issuance if Security is provided	Permittee	
16.	Cost Estimates. CDFW has estimated the cost of the purchase of credits at a conservation or mitigation bank OR acquisition, protection, and perpetual management of HM lands, and restoration of temporarily disturbed habitat at \$1,129,748.75, as shown below:  Purchase of giant garter snake credits as described in Condition of Approval 9.2, calculated at \$65,000.00 per acre for 3.09 acres: \$200,850.00  Purchase of California tiger salamander upland habitat credits as described in Condition of Approval 9.2, calculated at \$18,500.00 per acre for 34.5 acres: \$638,250.00  Purchase of California tiger salamander breeding habitat credits as described in Condition of	ITP Condition # 9.1	Before commencing ground- or vegetation-disturbing activities, or no later than 18 months from ITP issuance if Security is provided	Permittee	

	Approval 9.2, calculated at \$20,000.00 per acre for 14.46 acres: \$289,200.00 Restoration of on-site temporary effects to giant garter snake habitat as described in Condition of Approval 9.6, calculated at \$2,375.00 per acre for 0.61 acres: \$1,448.75.				
17.	Covered Species Credits. Permittee shall purchase 34.5 acres of California tiger salamander upland habitat credits, 14.46 acres of California tiger salamander breeding habitat credits, and 3.09 acres of giant garter snake credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below. OR:	ITP Condition # 9.2	Before commencing ground- or vegetation-disturbing activities, or no later than 18 months from ITP issuance if Security is provided	Permittee	
18.	Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:  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);  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 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;  HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). 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;  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;  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 <a href="https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates">https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates</a> ) (2) conducting a baseline biological assessment and land survey report within four months of	ITP Condition # 9.3	Before commencing ground- or vegetation-disturbing activities if ITP Condition 9.2 is not met	Permittee	

	<p>recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;</p> <p>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.</p>				
19.	<p>Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p> <p>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</p>	ITP Condition # 9.4	Before commencing ground- or vegetation-disturbing activities if ITP Condition 9.3 is implemented	Permittee	

	<p>determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;</p> <p>Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.</p> <p>Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.</p> <p>Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <p>10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</p> <p>Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.</p> <p>Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p>				
20.	Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Condition # 9.5	Before commencing ground- or vegetation-disturbing activities if ITP Condition 9.3 is implemented	Permittee	
21.	<p>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:</p> <p>Security Amount. The Security shall be in the amount of \$1,129,748.75. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.</p> <p>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.</p> <p>Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or</p>	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities or within 30 days after the effective date of this ITP, whichever is first		

	<p>within 30 days after the effective date of this ITP, whichever occurs first.</p> <p>Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.</p> <p>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.</p> <p>Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <ul style="list-style-type: none"> <li>• Receipt of executed copies of Bill(s) of Sale; and</li> <li>• Receipt of executed copies of Payment Receipt(s).</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• Written documentation of the acquisition of the HM lands;</li> <li>• Copies of all executed and recorded conservation easements;</li> <li>• Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and</li> <li>• Timely submission of all required reports.</li> </ul> <p>AND</p> <ul style="list-style-type: none"> <li>• Restoration of 0.61 acres of giant garter snake habitat on-site.</li> </ul> <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe</p>				
	<b>DURING CONSTRUCTION</b>				
22.	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.	ITP Condition # 6.3	Entire Project	Permittee, Designated Biologist	
23.	Construction Monitoring Binder. The Designated Biologist shall maintain a construction-monitoring binder 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 binder is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Designated Biologist	
24.	Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.	ITP Condition # 6.7	Entire Project	Permittee	

25.	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.	ITP Condition # 6.8	Entire Project	Permittee	
26.	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. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.11	Entire Project	Permittee	
27.	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.	ITP Condition # 6.12	Entire Project	Permittee	
28.	Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 6.13	Entire Project	Permittee	
29.	Dogs. Permittee shall prohibit domestic dogs from the Project Area and site access routes during Covered Activities, except dogs in the possession of authorized security personnel or local, state, or federal law enforcement officers.	ITP Condition # 6.15	Entire Project	Permittee	
30.	Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention Best Management Practices (BMPs) and guidelines for invasive plants can be found on the California Invasive Plant Council's (Cal-IPC) website at: <a href="https://www.cal-ipc.org/solutions/prevention/">https://www.cal-ipc.org/solutions/prevention/</a> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <a href="https://stopaquaticchitchhikers.org/">https://stopaquaticchitchhikers.org/</a> .	ITP Condition # 6.17	Entire Project	Permittee	
31.	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.	ITP Condition # 7.3	Entire Project	Designated Representative	
32.	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 a month during periods of inactivity and after clearing, grubbing, excavation, filling, and grading are	ITP Condition # 7.4	Entire Project	Designated Biologist	

	completed.				
33.	Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.4 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Amanda Culpepper (Amanda.Culpepper@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.5	Quarterly	Permittee	
34.	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 7.5; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) information about other Project impacts on the Covered Species; and (7) Vegetation Restoration Plan status reports as identified in Condition of Approval 9.6.	ITP Condition # 7.6	Annually	Designated Representative or Designated Biologist	
35.	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.	ITP Condition # 7.7	Entire Project	Permittee	
36.	Notification of Non-Native Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a suspected barred tiger salamander ( <i>Ambystoma tigrinum mavortium</i> ) or California tiger salamander x non-native salamander hybrid is found within the Project Area within 24 hours by calling the Regional Office at (707) 428-2002 or Amanda.Culpepper@wildlife.ca.gov. CDFW and Permittee shall consult to determine measures to address non-native or hybrid populations.	ITP Condition # 7.9	Entire Project	Designated Biologist	
37.	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 (707) 428-2002 or Amanda.Culpepper@wildlife.ca.gov. 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.  If the Covered Species is found recently deceased, a 0.5-inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95 percent ethanol. The remaining carcass	ITP Condition # 7.10	Entire Project	Permittee	

	shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to CDFW Bay Delta Region, Attention: Marcia Grefsrud, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534. The remaining carcasses shall be delivered to the CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road Suite D, Rancho Cordova, CA 95670 within two calendar days of the discovery.				
38.	<p>Seasonal Work Period. Unless approved by CDFW, all Covered Activities within giant garter snake habitat will occur during their active season, between May 1 and October 1, and all Covered Activities within California tiger salamander habitat shall occur during their non-breeding season, between June 15 and October 15. Giant garter snake habitat includes the drainage ditch and a 200-foot buffer from the bank within the Triangle Property. California tiger salamander habitat includes the entirety of the Triangle Property.</p> <p>The work period may be modified in writing on a week-by-week basis by a CDFW representative. Requests for a work period extension shall: (1) describe the extent of work already completed; (2) detail the activities that remain to be completed; (3) detail the time required to complete each of the remaining activities; (4) provide photographs of both the current work completed and the proposed site for continued work; (5) include National Weather Service 7-day forecast of nightly temperature lows, which should remain above 45°F; and (6) include an assessment of additional biological impacts as a result of the work extension. An extension of the period may require an Amendment if addition impacts to Covered Species will occur.</p>	ITP Condition # 8.1	Entire Project	Permittee	
39.	<p>Wet Weather Work Restriction. Permittee or the Designated Biologist shall consult the 72-hour weather forecast from the National Weather Service (NWS) prior to the start of ground disturbing activities. Ground disturbing activities shall not begin unless a no precipitation forecast is obtained covering the entire Project Area and necessary erosion control measures are implemented (see Condition of Approval 8.3). The Designated Biologist shall keep precipitation records on-site, and these records shall be subject to CDFW inspection.</p> <ul style="list-style-type: none"> <li>• If a 40 percent or greater chance of rain is forecasted, then ground disturbing activities shall cease 24 hours prior to the forecasted rain, unless otherwise approved in writing by CDFW.</li> <li>• If ground-disturbing activities are approved by CDFW as described above, the Designated Biologist shall survey the work area before construction begins each day rain is forecast. If rain exceeds 0.25 inches during a 24-hour period, ground-disturbing activities shall cease.</li> <li>• Twenty-four hours after the rain ceases and once there is no precipitation in the 24-hour forecast, ground disturbing activities may continue.</li> </ul>	ITP Condition # 8.2	Entire Project	Permittee or Designated Biologist	
40.	Erosion Control Habitat Protection. Permittee shall install erosion controls to ensure sediment and other materials from the Project Area do not wash onto Covered Species habitat located adjacent to the Project Area. Erosion control fencing shall be installed between the Project Area and adjacent habitat. Soil stockpiles shall be placed where soil cannot not wash onto habitat, and active and non-active spoil piles shall be stabilized with native grass hydro-seed, erosion control fabric, straw, or other biodegradable material by October 15 of each year of the Project. Plastic and other synthetic materials shall not be used. Fiber rolls and a Covered Species temporary barrier shall be placed around the perimeter of non-active spoil piles, and slope breaks shall be utilized on the slopes of non-active spoil piles. Active spoil piles shall be covered/stabilized adequately when rainy conditions are evident (see Condition of Approval 8.2) or at any time when spoil material could enter Covered Species terrestrial or aquatic habitat.	ITP Condition # 8.3	Entire Project	Permittee	



41.	Time of Day Work Restriction. Permittee shall terminate all Covered Activities 30 minutes before sunset and shall not resume Covered Activities until 30 minutes after sunrise. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area to identify when Covered Activities shall terminate and resume. All lighting shall be turned off thirty (30) minutes prior to sunset, unless required for safety or security purposes.	ITP Condition # 8.4	Entire Project	Permittee	
42.	Personnel Restriction. Permittee shall ensure that all construction activities and personnel, including subcontractors, are restricted to the active construction area surrounded by the Covered Species temporary barrier and public roads.	ITP Condition # 8.8	Entire Project	Permittee	
43.	Covered Species Equipment Checks. Permittee shall inspect all vehicles and equipment stored outside of the Covered Species temporary barrier near the Project Area every day prior to Covered Activities. Permittee shall inspect beneath and under equipment and vehicles prior to moving them. If Covered Species are present, the Permittee shall inform the Designated Biologist and equipment shall not be operated until the Covered Species leaves of its own accord or the Designated Biologist relocates the Covered Species in accordance with Condition of Approval 8.11. Permittee shall inform the Designated Biologist if Covered Species are encountered within or near the Project Area during any phase of the Project.	ITP Condition # 8.9	Entire Project	Permittee	
44.	Covered Species Capture and Handling. Covered Species may only be captured and handled by the Designated Biologist. The Designated Biologist shall determine whether the animal should be captured and handled, or, avoided and allowed to leave of its own volition. The Designated Biologist(s) shall minimize capture and handling to the extent feasible as most Covered Species experience stress in response to capture and short-term confinement. All capture and handling shall be in accordance with the Covered Species Relocation Plan (Condition of Approval 8.11).	ITP Condition # 8.12	Entire Project	Designated Biologist	
45.	Open Pipe Restriction. All pipes, culverts, or similar structures that are stored in the Project Area vertically or horizontally for one or more overnight periods shall be securely capped on both ends prior to storage and thoroughly inspected for wildlife prior to installation by the Designated Biologist. All hollow pipes or posts installed as part of the Project and exposed to the environment shall be capped, screened, or filled with material by Permittee prior to the end of the workday in which installation occurs.	ITP Condition # 8.13	Entire Project	Permittee	
46.	Trench Escape and Inspection. The Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning of each working day for trapped animals. To prevent inadvertent entrapment of Covered Species, the Designated Biologist shall oversee the covering of all trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material at the close of each working day such that Covered Species are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. If covering cannot be provided, then escape ramps constructed of earthen fill or wooden planks shall be installed at the end of each working day.  Each morning prior to beginning Covered Activities and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist shall thoroughly inspect them for Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist immediately if any worker discovers that Covered Species have become trapped. If at any time a trapped Covered Species is discovered by the Designated Biologist or	ITP Condition # 8.14	Entire Project	Designated Biologist	

	<p>anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per the Covered Species Relocation Plan described in Condition of Approval 8.11.</p> <p>If the open holes, sumps, trenches, or excavations cannot be covered and escape ramps cannot be installed, then a Covered Species temporary barrier shall be installed around the feature to prevent Covered Species from becoming trapped. Refuge opportunities, such as coverboards shall be provided on the outside perimeter of the barrier.</p>				
47.	Disposal of Vegetative Debris. Permittee shall immediately haul natural debris composed of vegetation off-site for disposal.	ITP Condition # 8.15	Entire Project	Permittee	
48.	Channel Dry-Out Period. Permittee shall ensure that the dewatered drainage ditch remains dry for a minimum of 15 days prior to excavating or filling the habitat. During dry-out, the Designated Biologist shall inspect the drainage ditch and prevent Covered Species entrapment pursuant to Condition of Approval 8.14.	ITP Condition # 8.16	Entire Project	Permittee	
49.	Pesticides Prohibited. Permittee shall ensure that rodenticides or other poisons used in the control of fossorial (burrow-dwelling) mammals, and herbicides, are not used within the Project Area during the term of this ITP unless otherwise approved in writing by CDFW.	ITP Condition # 8.18	Entire Project	Permittee	
50.	<p>Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall evaluate the individual and shall immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps pursuant to Condition of Approval 7.10. If the CDFW Regional Representative cannot be contacted immediately, the injured Covered Species shall be placed in a container with appropriate conditions. If the CDFW Regional Representative is not available or has not responded within two hours of initial attempts, then the following steps shall be taken by the Designated Biologist:</p> <p>If the injury is minor or healing and the individual is likely to survive, the individual shall be released immediately in accordance with the Condition of Approval 8.11.</p> <p>If it is determined that the Covered Species has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum or another CDFW approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and the U.S. Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed, and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.10.</p>	ITP Condition # 8.19	Entire Project	Designated Biologist	
51.	Habitat Restoration. Permittee shall prepare a Vegetation Restoration Plan (VRP) to restore on-site the 0.61 acres of giant garter snake habitat that will be temporarily disturbed during construction to pre-Project or better conditions. The VRP shall be submitted to CDFW for review and approval within 6 months of issuance of this ITP, or a minimum of 2 months prior to restoration activities, whichever is sooner. The VRP shall identify plant species damaged or removed during the Covered Activities. Permittee shall plant replacement vegetation the first suitable season after construction is complete. The VRP shall include planting layout design with sufficient space appropriate for each species. The VRP shall include measures the Permittee will implement (e.g., irrigation methods, weed management, maintenance, and replanting if necessary) to ensure a minimum of 70 percent survivorship for 5 years. Permittee shall provide an annual status report to CDFW by January 31 of each year including wildlife found at the Project Area, survival and percent cover of the revegetation effort, and the method used to assess these parameters (Condition of Approval 7.6). Recommended plantings consist of a mix of the following:	ITP Condition # 9.6	Within 6 months of ITP issuance or 2 months prior to restoration activities, whichever is sooner.	Permittee	

	<p>Wetland Emergent. Native emergent wetland plants recommended for giant garter snake habitat are hardstem bulrush (<i>Schoenoplectus acutus</i>) and California bulrush (<i>Schoenoplectus californicus</i>). Additional native wetland plantings may include cattail (<i>Typha</i> spp.) excluding the non-native narrow leaf cattail (<i>Typha angustifolia</i>) or Baltic rush (<i>Juncus balticus</i>).</p> <p>Low Growing Cover on or Adjacent to Banks. Cover Species on or adjacent to the bank should include native grasses and forbs described in the hydroseeding mix below. Additional cover may include California blackberry (<i>Rubus ursinus</i>) or California wild grape (<i>Vitis californica</i>).</p> <p>Upland Plantings/Hydroseeding Mix. Permittee shall hydroseed disturbed soil surfaces such as berm slopes with native grass and forb seeds. The seed mix shall be composed of a mix of the following: California brome (<i>Bromus carinatus</i>), blue wildrye (<i>Elymus glaucus</i>), purple needle grass (<i>Stipa pulchra</i>), native clover (<i>Tirfolium</i> spp.), or a native mix approved in writing by CDFW. Permittee shall not seed or otherwise introduce aggressive or non-native grasses such as perennial ryegrass (<i>Festuca perennis</i>), cheatgrass (<i>Bromus tectorum</i>), giant reed (<i>Arundo donax</i>), medusa head (<i>Elymus caput-medusae</i>), or Pampas grass (<i>Cortaderia selloana</i>).</p> <p>Permittee shall not plant riparian trees or other plants that would cause shading and reduce basking sites for giant garter snakes.</p>				
	<b>POST CONSTRUCTION</b>				
52.	Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.16	Post-construction	Permittee	
53.	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.	ITP Condition # 7.8	No later than 45 days after construction and completion of mitigation	Permittee	
54.	Temporary Impacts. To be considered a temporary impact, Permittee shall re-create aquatic giant garter snake habitat by October 15 of the year of the impact, unless otherwise approved in writing by CDFW. Temporarily impacted aquatic habitat must be connected to adjacent aquatic habitat, contain appropriate wetland emergent vegetation, and contain low-growing bankside cover habitat (see Condition of Approval 9.6). Impacted areas that do not meet these requirements will be considered permanent impacts, an Amendment will be required, and additional Habitat Management Lands or mitigation bank credits pursuant to Condition of Approval 9 may be required.	ITP Condition # 8.7	Post-Construction by October 15	Permittee	

## Attachment 2

[http://www.nwhc.usgs.gov/publications/amphibian\\_research\\_procedures/handling\\_and\\_restraint.jsp](http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp)

### Restraint and Handling of Live Amphibians

#### STANDARD OPERATING PROCEDURE

ARMI SOP No. 100

Revised, 16 February 2001

- I. PURPOSE: Provide guidelines for humane handling of amphibians so that injury and distress to the amphibian are minimized.
- II. SCOPE: These guidelines apply to larvae and tadpoles, as well as adult frogs, toads, salamanders and neotenes. Because of their anatomically different and very delicate skin, tadpoles and larvae must be handled differently than post-metamorphic amphibians.
- III. EQUIPMENT and SUPPLIES.
  - A. Standard capture equipment (seine nets, dip nets, minnow traps)
  - B. Clear plastic bags (half liter or full liter size)
- IV. BACKGROUND: There are three main hazards associated with handling live amphibians: two to the amphibian and one to the handler. To amphibians, the main dangers of being handled are skin damage that could result in secondary skin infections, and bone and muscle injuries caused by struggling when being held. For the handler, the main danger comes from toxic skin secretions produced by some amphibians (in the USA, this is mostly newts and the introduced giant/marine toad). Tadpoles and larvae have thin delicate skin that is very easily damaged by the slightest handling. The skin of larvae lacks keratin and has fewer cell layers than adult amphibian skin. Therefore, direct contact handling of tadpoles and larvae is to be avoided; instead, these amphibian stages are examined through clear flexible plastic bags containing water. Although the skin of adult (post-metamorphic) amphibians has keratin and is less delicate than larval skin, their skin is still much more delicate than the skin of reptiles, birds and mammals. Rough handling of adult amphibians can easily result in skin abrasions, small tears, punctures, erosions and ulcers; normally, minor skin wounds heal quickly, but if contaminants, sewage or high levels of microorganisms are present in the pond or other environment, then wound infections are possible.  
Frogs and Toads. All amphibians can be expected to struggle following capture. For anurans, there is a danger that vigorous kicking with the hindlimbs can cause joint dislocations or a broken (fractured) back; broken backs are a well-documented and major problem in another species that moves by hopping---rabbits. Therefore, proper

restraint of anurans, first and foremost involves inhibiting their ability to kick. Salamanders. For salamanders, there are three major dangers associated with handling: 1) loss (automizing) of the tail, 2) damage to the very delicate external gills (in neotenes), and 3) back injury during whip-like thrashing movements.

#### V. METHODS OF PHYSICAL RESTRAINT:

- A. Anurans. Medium and large size frogs and toads (those about 5 grams and larger) should be grasped around the waist with the hindlimbs fully extended. The animal should not be allowed to bend (flex) its hip and knee joints, since this would allow it to kick.
- B. Caudates. Medium and large size salamanders (those about 5 grams and larger) should be grasped in the middle of the body between the forelimbs and hindlimbs. Larval and neotenic salamanders should never be grasped around the head or neck, because the gills can be easily damaged. Under no circumstances should salamanders be grasped by the tail or picked up by the tail.
- C. Larvae. All larvae (including tadpoles) should be handled with nets or scoops. For examinations, the larvae should be placed in a clear plastic bag with a mild amount of water. Alternatively, larvae may be sedated with an anesthetic and examined in a dish or bowl of water. As much as possible, larvae should be examined only while they are in water. Larvae should not be grasped with bare hands.

#### VI. MISHAPS.

- A. Skin wounds: If an amphibian suffers a skin wound during handling, it is recommended that the wound be sprayed with the over-the-counter product, Bactine® (See the SOP on Toe Clipping of Frogs and Toads, NWHC ACUC Protocol 2001-004). All other topical antiseptics and disinfectants (sprays and ointments) are CONTRAINDICATED in amphibians. If possible, the animal should then be released on land rather than into water, since the antiseptic spray would be quickly washed off in water.
- B. Broken back: If a frog or toads suffers a broken back during capture or handling, it should be promptly euthanized. It would be inhumane to release such a crippled animal. An animal with a broken back will have serious damage to the spinal cord and should show almost immediate paralysis of the hindlimbs and tail. Recommended methods of humane euthanasia include (see NWHC ACUC Protocol 1999-009, Methods of Euthanasia):
  - 1. Pithing
  - 2. Overdosing in anesthetic solutions of MS222 or benzocaine

3. Application of a benzocaine-based topical ointment (as used by humans to relieve tooth-aches) to the top of the head and dorsum of the body.
- 
- C. Broken leg: If a major bone of a limb is broken during capture or handling, the animal should be euthanized or taken to a wildlife rehabilitation center or veterinarian for treatment. A broken leg bone typically is recognized as an abnormal bend in the leg where there is no joint; other signs of a broken leg bone are protrusion of a bone fragment through the skin, inability of the animal to move a limb or position a leg in its normal resting posture. After treatment, amphibians with broken bones might be given to a zoo or placed in a captive breeding program. Only if the injured amphibian is kept isolated from all other fish, amphibians and reptiles (eg, in a separate cage) during treatment, can it later be considered for release at the point of capture. Injuries to digits (toes and fingers) generally are not life-threatening; if the skin of the injured toe also is wounded, then treatment with Bactine® prior to immediate release is acceptable. If a toe bone is broken and protruding through the skin, the affected toe may be amputated just proximal to the site of the fracture, the stump should be sprayed with Bactine®, and the animal may be released.
  - D. Automized tail: If a salamander automizes (detaches) its tail during capture or handling, the stump should be treated (sprayed) with Bactine®; the salamander can then be promptly released.
  - E. Crushing injuries to head and body. Amphibians that have serious injuries to skin, muscles and bones should be promptly euthanized. Crushing injuries that are limited to a limb or tail will require treatment at a wildlife rehabilitation center or a veterinary clinic; alternatively, the animal may be euthanized, but it would be inhumane to release a seriously injured amphibian.
  - F. Snout abrasions. Amphibians that are held in glass or clear plastic containers may jump head-first into the glass, or may rub their snout against the container in attempts to burrow out. If amphibians are held for more than an hour in a clear container (bottle, aquarium, etc), they should be examined for evidence of skin injury at the tip of the snout and elsewhere around the head prior to release. If abrasions are detected, they should be sprayed with Bactine® prior to release.
  - G. Toxic skin secretions. All amphibians have glands in their skin that secrete a vast number of chemicals; some of which are merely noxious and repellant-like, while others may cause skin or eye irritation, and some may actually kill. The poison-dart frogs of Central America are an example of a frog with toxic secretions that can kill a human. Among the native amphibians of the United

States, the two amphibians of greatest concern are giant toads (also called cane toads, marine toads, aka toads; *Bufo marinus*) and western newts of the genus, *Taricha*.

Giant toads secrete a potent white mucoid substance from their parotid glands (large warts just behind the eyes) that affects the heart, but it is not absorbed through the intact human skin; however, the toxin is readily absorbed through the eyes and mouth. Hence, the best way to prevent poisoning is to carefully avoid rubbing the eyes or putting fingers in the mouth after handling a giant toad. If skin secretions of giant toads contact the eye or mouth, then flush promptly with generous amounts of clean fresh water or contact lens wetting solution, and then seek emergency care at a clinic or hospital if stinging or numbness of the eye or mouth develops.

Newts of the genus, *Taricha*, also secrete toxins from their skin; it is presumed that the entire body of these newts secretes toxins (newts and other salamanders do not have parotid glands). Their skin secretions are very irritating to the eyes and mouth. Temporary blindness (lasting about 24 hrs) has been reported by field biologists that handled newts and then rubbed their eyes. If sensations of blurred vision, or burning or stinging of the eyes occur after handling any genus or species of newt, wash the eyes with copious amounts of fresh clean water (or contact lens wetting solutions) and promptly seek medical care. Persons with newt skin secretions in their eyes are advised not to drive a vehicle or operate other dangerous or heavy equipment.

Finally, it is possible that other amphibian species in the USA besides giant toads and newts, could produce skin secretions that are irritants to the eyes. Furthermore, amphibians may carry some bacteria in their intestines and feces that are human pathogens, such as the bacteria, *Salmonella* and *Leptospira*. Hence, it is always best to practice good personal hygiene after handling any amphibian (namely, thoroughly wash your hands with soap and water).

#### VII. CITED LITERATURE:

1. MARTIN, D., and H. HONG. 1991. The use of Bactine® in the treatment of open wounds and other lesions in captive anurans. *Herpetol Rev* 22: 21.

## ATTACHMENT 3A

## CALIFORNIA 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 California 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.

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 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)



PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

Date: \_\_\_\_\_

TO: Regional Representative

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Facsimile:

FROM: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Applicant proposes that the following parcel of land be considered for approval by the CDFW as suitable for purposes of habitat management lands to replace the adverse environmental impacts of the Project:

<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Number of Acres</u>
----------------	-----------------	--------------	------------------------

_____	_____	_____	_____
-------	-------	-------	-------

Current Legal Owner(s), include Parcel Number(s):\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Location of Parcel:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

APPROVED \_\_\_\_

REJECTED \_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
Region

DATE: \_\_\_\_\_

Explanation: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**[Financial institution letterhead]**

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

---

Issue Date: **[date]**

Beneficiary:

Department of Fish and Wildlife  
Habitat Conservation Planning Branch  
Post Office Box 944209  
Sacramento, CA 94244-2090  
Attn: HCPB Contract 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 CDFW pursuant to the terms of the incidental take permit for the **[name of project]** issued by 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 CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. 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 CDFW as defined in paragraph 12 below. Presentation by 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 CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give 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, 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 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 CDFW, as defined in paragraph 12 below.
12. An “Authorized Representative” shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Chief of CDFW’s Habitat Conservation Planning Branch.
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 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 CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, Post Office Box 944209, Sacramento, CA 94244-2090, Attn: HCPB Contract 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 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: \_\_\_\_\_

Telephone: \_\_\_\_\_

ATTACHMENT A

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

To:

[***Name and address of financial institution***]

Re: [***Insert:*** "Lake" ***or*** "Streambed"] Alteration Agreement (No. [***permit number***])

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

1. [***Insert one of the following statements:*** "In the opinion of 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 CDFW that the Credit will not be extended and the Applicant has not provided CDFW with an equivalent security approved by 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. 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, CDFW has executed and delivered this Certificate as of the \_\_\_\_ day of [***month***], [***year***].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: \_\_\_\_\_

[***Insert one of the following:*** "DIRECTOR" ***or*** "GENERAL COUNSEL" ***or*** "REGIONAL MANAGER, [NAME OF REGIONAL OFFICE]" ***or*** "BRANCH CHIEF, HABITAT CONSERVATION PLANNING BRANCH"]

ATTACHMENT B

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

To:

[***Name of financial institution and address***]

Re: [***Insert:*** "Lake" ***or*** "Streambed"] Alteration Agreement (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 Applicant has provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. CDFW therefore requests the cancellation of the Credit.

Therefore, CDFW has executed and delivered this Certificate for Cancellation as of the \_\_\_\_ day of [***month***], [***year***].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: \_\_\_\_\_

[***Insert one of the following:*** "DIRECTOR" ***or*** "GENERAL COUNSEL" ***or*** "REGIONAL MANAGER, [NAME OF REGIONAL OFFICE]" ***or*** "BRANCH CHIEF, HABITAT CONSERVATION PLANNING BRANCH"]

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 Regional 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: \_\_\_\_\_