



**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. 2081-2021-027-03

VALLECITOS CHANNEL MAINTENANCE PROJECT

Authority:

This California Endangered Species Act (CESA) Incidental Take Permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take¹ of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.² CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

Permittee: Alameda County Water District

Principal Officer: Ed Stevenson, Manager of Engineering and Technology

Contact Person: Kerri Smyth, Project Engineer, kerri.smyth@acwd.com
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Mailing Address: 43885 South Grimmer Boulevard, Fremont, CA 94538

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, 2027**.

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.

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

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

Project Location:

The Vallecitos Channel Maintenance Project (Project) is located in unincorporated Alameda County south of State Route (SR) 84 and east of Interstate 680 in the foothills of the Diablo Range (See Figure 1). The Project extends from the head of the Vallecitos Channel where the California Department of Water Resources (DWR) South Bay Aqueduct (SBA) emergency culvert outlet is located and extends downstream 7,980 feet (ft) (Figure 2) at approximately 37.596433, -121.859136.

Project Description:***Background***

The Vallecitos Channel is a critical component in the Permittee's water supply system. Bank erosion and sloughing have been ongoing issues for the Vallecitos Channel despite a series of bank repair and stabilization projects previously conducted to address severe erosion and to stabilize bank sloughing where it threatened the access/maintenance road along the south bank.

Several locations have experienced severe streambank erosion and bank shearing, thereby reducing the right-of-way width and rendering the access/maintenance road along the top of the south bank unusable for vehicles. In addition, dense emergent vegetation obstructs flow in several sections of the channel (e.g., directly downstream of Drop Structure #8 and Drop Structure #11) deflecting flow horizontally, exacerbating bank erosion, and resulting in localized flooding.

Although originally designed for peak flows at 120 cubic feet/second (cfs) from the SBA emergency discharge events, the existing channel has overtopped in some areas at flows of approximately 20 cfs due to a combination of sediment accumulation and overgrowth of in-channel vegetation. The Permittee developed the current Project to address the channel's primary maintenance needs. Channel maintenance is required to provide operational flexibility for the Permittee's water supply system needs.

Current Project

The current Project will implement the following targeted treatment types and associated maintenance activities: vegetation and sediment management, bioengineering treatments, toe rock slope protection (RSP), full RSP, grouted RSP, and upland road drainage improvements. These treatments are described in detail below.

Vegetation Management

Vegetation management will be implemented in four sections of the channel where dense stands of cattail and/or tule reduce channel capacity and/or restrict downstream flow and redirect waters into adjacent streambanks resulting in erosion or overtopping of the bank (i.e.,

between Drop Structures #3 and #4, between Drop Structures #7 and #8, downstream of Drop Structure #8, and between Drop Structures #11 and #12, (Figure 3). Vegetation management in these four sections will include the removal of emergent vegetation (and associated root masses and sediment deposits) from the channel's center and right (north) bank margin.

In three additional areas (i.e., between Drop Structures #5 and #6, immediately downstream of Drop Structure #8, and between Drop Structures #10 and #11), accumulated sediment has formed large instream bars with minimal emergent vegetation growth (see Figure 3). Similar to vegetation management actions, a long reach excavator stationed out of the channel above the streambank on the adjacent access/maintenance road will remove material from the bars. Sediment will be transported off-site for disposal at an appropriate facility.

Bioengineering Treatments

In three areas where more recent, or less severe, bank erosion is observed and where channel conditions do not pose an immediate threat to the overall stability of the bank or access/maintenance road (e.g., directly downstream of Drop Structure #4), bioengineering treatments will be implemented to arrest and prevent further bank erosion and reinforce soil stability in these areas. Bioengineering treatments primarily involve staking of live willows at the toe or mid-slope. Live willow staking may be used on its own or in conjunction with other bioengineering materials, such as jute matting or biodegradable coconut fiber blankets.

Where channel conditions permit, the bioengineering treatment approach may include installation of willow walls (or spiling) near the bank toe.

Toe Rock Slope Protection

In five areas where bank erosion is severe but the existing width of roadway is sufficient to meet Permittee access requirements (i.e., at least 12 ft in width) and willow staking alone will not provide adequate protection, RSP will be placed at the bank toe (i.e., between Drop Structures #2 and #3, just upstream of Drop Structures #4 and #8, just downstream of Drop Structure #10, and between Drop Structures #10 and #11).

In 10 areas of severe bank erosion where the remaining roadway width is inadequate to provide safe access (i.e., less than 12 ft in width), the channel bank will be repaired at the following targeted locations to reflect the original bank: immediately upstream of Drop Structure #1, between Drop Structures #1 and #2, immediately downstream of Drop Structure #3, between Drop Structures #3 and #4, between Drop Structures #7 and #8, immediately upstream of Drop Structure #8, downstream of Drop Structures #8, #10, and #11, and between Drop Structures #11 and #. RSP will be keyed to below the anticipated depth of scour (approximately 2 ft) and will extend to the top of bank. The rock will be placed to conform to the existing bank line geometry with minor bank grading anticipated at upstream and downstream conforms. Vegetation management may also be prescribed to allow for RSP installation.

Grouted Rock Rip Rap

The streambanks steepen near the drop structures to an angle that exceeds 1.5H:1V, which is generally considered steeper than the maximum stable grade for un-grouted RSP treatments. For this reason, and because strong eddy forces act in these transition zones, grouted RSP is proposed where bank erosion sites abut concrete drop structures (e.g., at drop structure #12).

Upland Road Drainage Improvements

In general, the surrounding topography south of the channel slopes northward (i.e., toward the channel). However, two segments of the access/maintenance road slope are out-sloped away from the channel. As overland runoff flows toward the channel, the out-sloping road redirects and funnels runoff parallel to the roadway. This concentrated runoff flows until reaching constructed features (i.e., culverts) or results in gulying of the roadway and the top of bank and/or flows subsurface through soil cracks or rodent burrows. To help improve drainage and prevent further gulying, the access/maintenance road will be in-sloped toward the channel. In five other locations, however, the access/maintenance road will be out-sloped to conform the road grade with the existing grade near the property fence line or to repair small sink holes (See Figure 3). These treatments will also require minor road improvements, such as removing sediment and debris from plugged culverts, in-kind culvert replacement at one location, removal of existing concrete or grout road repairs that are failing, backfilling of rodent burrows or subsurface voids, and repairing gullies and minor slope failures at the top of bank. At two locations, gabion rock (2-3 cubic yards (cy) per site) will be used to repair minor slope failures to repair the road surface. In addition, at one site downstream of Drop Structure #3, a 25-foot-long French drain and concrete catch basin will be installed to connect with an existing culvert. Throughout the duration of road repair work, fiber rolls will be temporarily installed at the top of bank for erosion control purposes. After drainage improvements are complete, disturbed areas will be reseeded.

Construction Activities

Site Preparation

Site preparation will include relocating portions of the existing perimeter fencing along the existing access/maintenance road to allow vehicle passage in areas where severe bank erosion has occurred, to create vehicle turnarounds, and to serve as temporary staging areas. Vegetation clearing and grubbing may be required along the access/maintenance road, staging areas, road extensions, and at some treatment areas prior to grading or excavation. Clearing and grubbing of the site will be conducted using a skid steer, standard excavator, possibly a bulldozer, and hand labor.

Dewatering

Project construction activities will occur on a reach-by-reach basis whereby proposed treatments within the same reach will be completed all at once. The channel should be mostly

dry during Project construction; however, ponded water may be present in local depressions. Therefore, depending on channel conditions, some in-channel work within a given reach may require localized dewatering. Where dewatering is needed, a water diversion system will be installed to dewater each channel reach segment to facilitate in-channel construction and reduce potential impacts to water quality downstream. Diversion dams will be installed at the upstream and downstream end of the work area to divert flows around the work area through an installed 10-inch plastic pipe. The diversion dams will consist of gravel-filled bags wrapped in 10 mil plastic. Discharged water will be pumped in a manner to prevent excessive turbidity from entering the downstream end of the work area to prevent scour and erosion outside of each work area. Pumped water will be pre-filtered with gravel pack around sumps for subsurface flows and a silt fence or hay bales around pumps for surface flow. Pumped water will be discharged into isolated local depressions, filter bags, settling (Baker) tanks, or temporary sediment basins, as necessary, to meet water quality requirements. If excessive turbidity is expected where water is to be discharged into the channel, the water will be routed through a sediment interceptor or similar facility to remove sediment from water. After work within a dewatered channel area is complete, the water diversion system will be removed to allow creek flow to return to the channel.

Earthwork

Construction-related activities include excavation (e.g., for vegetation and sediment removal), concrete debris removal, grading, importing and placing fill and RSP, compacting the fill and other materials, and limited grout and concrete work. Grading will be required to in-slope and out-slope the access/maintenance road and possibly prepare staging areas and road extensions. Sediment removal activities will occur up to a depth of 3.5 ft and placement of RSP will require a maximum depth of excavation of 5.5 ft. To the extent feasible, graded soil will be reused on-site. A hydraulic hammer/jackhammer will be used for breaking up and removing concrete in select areas of the channel and access/maintenance road. Debris and excavated material that is not suitable for on-site reuse will be composted or disposed of at the Vasco Road Landfill. Haul trucks will be used to deliver fill material to the Project site (approximately 15 cy per load). Fill material will be placed with an excavator and compacted with a skid steer. For bioengineering treatments and where channel conditions allow at toe RSP and full RSP sites, willow stakes will be installed by hand.

Construction Equipment

Project activities will involve clearing and grubbing, grading, excavation, rock riprap placement, and hauling of soil and material on- and off-site. Some concrete work will be necessary to repair Drop Structure #12. Specific pieces of equipment will be determined by the construction contractor, but are anticipated to include the following types of equipment: excavators (e.g., Caterpillar 336F), skid steers, large loaders, bulldozer (e.g., Caterpillar D8), haul trucks, sump pump with a generator, hydraulic hammer/jackhammer, compactor, pickup trucks, manual and powered hand tools and mowers (e.g., weed whacker, hedge trimmer, chainsaw, loppers/handsaw, etc.).

Construction Access and Staging Areas

Construction vehicles and equipment will access the Project area while traveling eastbound on SR 84 from Vallecitos Lane (approximately 0.60 mi east of Interstate 680) and from three private dirt roads on the south side of SR 84). Two of these dirt roads will require extensions (see Figures 2 and 3), and these points of entry allow vehicles access to the downstream and upstream extents of the Project area, respectively. An access/maintenance road parallels the top of the left (south) bank. Lighter vehicles can cross the channel at Drop Structures #5 and #10. Trucks will be hauling material from the Project area to Vasco Road Landfill.

Designated staging areas have been identified at multiple locations along the channel alignment (see Figures 2 and 3). Staging may also occur on the Permittee's access/maintenance road adjacent to the channel. Construction staging areas will provide materials and equipment storage, construction trailers, employee parking, and storage and containment of fuel and lubricants.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ³
2. Alameda whipsnake (<i>Masticophis lateralis euryxanthus</i>) also known as Alameda striped racer (<i>Coluber lateralis euryxanthus</i>)	Threatened ⁴

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

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include excavation (e.g., for vegetation and sediment removal), concrete debris removal, grading, importing and placing fill and RSP, compacting the fill and other materials, and limited grout and concrete work. Grading will be required to in-slope and out-slope the access/maintenance road and possibly prepare staging areas and road extensions. Sediment removal activities and other earthmoving activities associated with construction, movement of vehicles and other construction activities in upland areas, storage of construction materials and equipment on site, installation of fencing, re-contouring and restoration activities, vegetation management, and/or relocation activities prescribed by this ITP (Covered Activities).

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

⁴See *Id.*, subd. (b)(4)(D).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities from destruction of burrows and dens that the Covered Species inhabit, by being crushed under moving vehicles and equipment, disturbance in the vicinity of dens or burrows, and desiccation or predation along fence lines and other barriers to movement. 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 attempts as required by this ITP. Relocation could, absent implementation of protective measures, result in mortality, injury, and/or disease transmission to Covered Species by individuals involved in the relocation effort. The areas where authorized take of the Covered Species is expected to occur include: on the access road, the staging areas, within the stream channel and on the banks (collectively, the Project Area).

The Project is expected to cause the temporary loss of a total of 2.06 acres of Covered Species habitat, including 1.46 acres of habitat for the Covered Species due to grading, and temporary impacts resulting in conversion of 0.60 acre of upland habitat for the Covered Species to riparian/wetland benches. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from heavy equipment, and capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, 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.

Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.

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- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration and Initial Study (SCH No.: 201030428) adopted by Alameda County Water District on May 13, 2021 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. ALA-17926) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- 4. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Formal Consultation for the Vallecitos Channel Maintenance Project (U.S. Army Corps of Engineers File No. 2021-00032) in Alameda County, California (Biological Opinion No. 08ESMF00-2021-F-1723) 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:

Designated Representative and Biologist

- 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 biological monitors (collectively, Designated Biologist) at least 15 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.
- 6.3.1. Permittee shall accommodate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP then the Designated Biologist shall notify the CDFW Representative immediately.
- 6.4. On-Site 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 (video training given by a biologist with expertise in the Covered Species is acceptable) 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. The Designated Biologists shall maintain construction monitoring binder throughout the construction period. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project site upon request by CDFW.

Waste and Erosion Control

- 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. Plastic water bottles and plastic bags shall be removed daily.

- 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. All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Permittee shall utilize erosion control measures throughout all phases of Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. No phase of the Project that may cause the introduction of sediments into a drainage, stream, or pond may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to startup of any phase of the Project that may result in sediment runoff to the stream. The Designated Biologist(s) shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately.
- 6.9. 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.

Delineation of Habitat

- 6.10. Delineation of Project Boundaries. Before starting Covered Activities along each part of the route or site in active construction, 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 in that area.
- 6.11. 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.
- 6.12. Additional Impacts to Habitat. No take beyond the temporary loss of 1.46 acres of habitat for the Covered Species and 0.60 acres of conversion of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts.

6.13. Project Access. Project-related personnel shall access the Project Area using existing routes or routes identified the Project Description, and shall not cross Covered Species' habitat outside of, or en route to, the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 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.

Temporary Impacts and Restoration

6.14. Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring shall occur by October 31 of the year of the impact and seeding of each temporary impact area shall occur by November 15 of the year of the impact or before winter rains, whichever comes first, and no additional ground disturbing activities shall occur; (2) if the impact area is within 1,000 feet of an aquatic feature, all work shall be completed within this area and exclusion fencing shall be removed by October 31 of the same calendar year, allowing the Covered Species unrestricted access between upland and aquatic habitat; and (3) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (see ITP Condition of Approval 6.15).

6.15. Vegetation Restoration. Permittee shall prepare a Vegetation Restoration Plan (Restoration Plan) to restore Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions. Permittee shall submit the Restoration Plan to CDFW for approval within at least 15 days prior to the start of restoration activities. The Restoration Plan shall identify plant species damaged or removed during Project activities. The Restoration Plan shall include the following restoration standards:

6.15.1. Performance Standards. To be considered a successful restoration site, Permittee shall meet the following performance standards:

- Permittee shall pre-designate each restoration area for establishment of a specific native vegetation community, based on slope, aspect, hydrological conditions, and if applicable, adjacent native vegetation. The seed mix for each restoration site shall be tailored to achieve the species composition of the pre-designated vegetation community. The distribution of vegetation communities within the restoration area shall be roughly proportionate to any native vegetation communities impacted. Following restoration, the species composition of each restoration site shall closely match that of the associated reference site;

- Seed mixes shall include only locally native species at a ratio appropriate to the site, with an emphasis on native bunchgrasses and other grassland species. Local native wildflower may also be included in the mix. Seed may be collected from within the Project Area. Additional seed shall be sourced from within 50 miles of the Project Area (*i.e.*, original genetic material shall have been collected within this radius); however, the seed may be purchased from a seed farm outside of this area. For seeding and mulching exposed slopes, the seed blend may include one or two sterile non-native perennial grass species.
- Permittee shall complete seeding prior to winter rains, but no later than November 15 of the year of the impact. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.
- Dominance of species designated as high or moderate invasive plants in the California Invasive Plant Council's (Cal-IPC) California Invasive Plant Inventory Database (<http://www.cal-ipc.org/paf/>) shall not exceed baseline conditions, which will be established by implementing Condition of Approval 6.18. If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner.

6.16. Monitoring and Maintenance. Permittee is responsible for monitoring and maintaining the restored areas for a period of three (3) years or until the Restoration Plan success criteria have been met, whichever is longer. After the first six months following completion of restoration activities, Permittee shall submit a brief monitoring report (10 pages or less, not including figures) detailing vegetation establishment, percent invasive plant cover, and other relevant observation regarding success of the restoration project to CDFW. If restoration has been successful as outlined in Condition of Approval 6.15.1, Permittee may submit the following report at the end of Year 1 and annually thereafter.

6.16.1. If the survival and/or cover requirements are not meeting the performance standards outlined in Condition of Approval 6.15.1, Permittee is responsible for replacement planting, additional watering, weeding, invasive plant eradication, or any other practice, to achieve these requirements. Permittee shall continue to submit annual restoration reports (see Condition 7.6) to CDFW until the standards have been met. Replacement plantings shall be monitored with the same survival and growth requirements for three (3) years after planting.

6.17. Tracking Impacts. Permittee shall track temporary and permanent impacts and notify CDFW if take authorization is likely to be exceeded in the coming month. Permittee shall submit an appropriately revised Project construction schedule (see Condition

6.18) within seven (7) days in order to ensure temporary impacts remain within the temporary impact criteria according to Condition of Approval 6.15. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.

- 6.17.1. If CDFW determines in writing that the take authorization for temporary or permanent impacts has been exceeded, Permittee shall cease all new construction activities until appropriate take authorization has been provided if so directed in writing by CDFW.

Invasive Species

- 6.18. Invasive Plant Species Control- Baseline. Permittee shall ensure that pre-Project baseline conditions are established for documenting type, location and general abundance of invasive plant species within the Project Area. These baseline conditions will be used for post-construction monitoring of restored areas (see Condition 6.17). The Designated Biologist(s) qualified to do botanical surveys and approved by CDFW shall submit the sampling methodology to CDFW at least 30 days prior to conducting baseline surveys. The baseline survey shall include both a qualitative (windshield and pedestrian) and quantitative assessment of target species within the Project Area.

Permittee shall ensure that baseline sampling at control transects is conducted prior to the start of Project construction activities. Sampling shall be conducted during the appropriate season for detecting invasive plant species, and shall be based on an appropriate number monitoring plots (treatment and control sets) approved by CDFW. The Designated Biologist(s) shall conduct sampling for target invasive plant species ranked by the Cal-IPC's Inventory as High or Moderate (<http://www.cal-ipc.org/paf/>).

- 6.19. 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 BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: <http://www.cal-ipc.org/ip/prevention/index.php> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <http://www.protectyourwaters.net/>.

- 6.20. Invasive Plant Species Control Plan. Permittee shall prepare an Invasive Plant Species Control Plan (Invasive Plant Plan) to effectively control and monitor invasive plants within Covered Species habitat that will be temporarily disturbed and subsequently restored. The Invasive Plant Plan shall include the results of baseline surveys (see Condition 6.16). Permittee shall submit the Invasive Plant Plan to CDFW for approval within 30 days prior to the start of restoration activities. The Permittee shall oversee the management of invasives within the Project Area and

may use control methods such as hand removal, mechanical removal and/or focused herbicide application within seeding and planting areas following vegetation restoration. The Designated Biologist shall ensure that invasive plant removal does not result in damage to adjacent Covered Species habitat or to root systems of installed plants. Herbicides may be used if hand or mechanical removal of invasives is unsuccessful or infeasible. Herbicides shall not be used within or near aquatic habitat and shall only be applied by an applicator holding a valid license issued by the California Department of Pesticide Regulation.

Construction

- 6.21. Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven (7) days prior to the change being implemented.
- 6.22. Emergency Response Plan. Before the onset of work, Permittee shall prepare an Emergency Response Plan describing actions that will be taken in case of a human-generated disaster, such as a spill or release of hazardous materials. An emergency phone tree, including contact information for all appropriate disaster management agencies and natural resources agencies, shall be included in the plan and should be posted on-site in a visible location. The Emergency Response Plan shall specify containment procedures for hazardous substances, with emphasis on avoidance of the aquatic features at the Project site.
- 6.23. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.24. 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.
- 6.25. 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 work areas.

- 6.26. Artificial Lighting. To the maximum extent feasible, Permittee shall ensure that night-time work is avoided. If night-time work cannot be avoided, it will be limited in extent, duration, and brightness to the maximum extent feasible. No earthmoving activities or overland travel shall take place during night-time work. All night-time work and construction-related traffic shall be suspended during rain events. Lighting shall be faced downward and shall only be utilized in the immediate workspace. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.
- 6.27. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and Project site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.
- 6.28. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, weather conditions, observations of Covered Species and other wildlife species, and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections at a minimum of once per

week during periods of inactivity, or daily as long as exclusion fencing is in place unless otherwise approved by CDFW.

- 7.4. Weekly Compliance Monitoring. During periods of inactivity or after clearing, grubbing, and grading are completed compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any conditions of this ITP including the failure to maintain the temporary barrier described in Condition of Approval 8.7.
- 7.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.3 and 7.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (Marcia.Grefsrud@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 Monthly 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) an accounting of the number of acres subject to both temporary and permanent disturbance since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 7.7. CNDDDB Observations. The Designated Biologist shall notify the CDFW Representative immediately when a Covered Species is seen or taken. The Designated Biologist shall submit all confirmed observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first

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relative to the observation. The Designated Biologist shall submit the observation to notification along with GPS coordinates to CDFW email at Marcia.Grefsrud@wildlife.ca.gov within 24 hours.

- 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 Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 7.9. Notification of Take or Injury. Permittee shall notify the Designated Biologist by the end of the business day 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) 482-2002 and the CDFW Representative at (707) 644-2812 by the end of the business day. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. If the take or injury is a result of Covered Activities then following initial notification, Permittee shall send CDFW a written report within two calendar days of the discovery. The report shall include the date and time of the finding or incident, GPS location of the Covered Species, photographs of the location and the Covered Species, explanation as to cause of take or injury, and any other pertinent information.
- 7.9.1. If a California tiger salamander is found recently deceased, a ½- inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, 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

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The remaining carcasses shall be delivered to the following address within two calendar days of the discovery:

CDFW Wildlife Investigations Lab
Attention: Deana Clifford
1701 Nimbus Road, Suite D
Rancho Cordova, CA 95670

- 7.9.2. If an Alameda whipsnake is found recently deceased, a 3 mm portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, 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. The tail tip shall be sent to the following address:

U.S. Geological Survey
Attention: Jonathan Richmond
4165 Spruance Road, Suite 200
San Diego, CA 92101

The remaining carcass shall be sent to Berkeley Natural History Museum at <https://mvz.berkeley.edu/deadanimal/> or California Academy of Sciences, at Herpetology, (415) 379-5292, or at LScheinberg@calacademy.org.

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

- 8.1. Vehicle Speed Limit. Permittee, Designated Biologist(s) and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 20 miles per hour when traveling through the Project area.
- 8.2. Inspection of Pipes and Culverts. All construction pipes, culverts, or similar structures with a diameter of 2 inches or greater that are stored in the Project Area for one or more overnight periods shall be either securely capped prior to storage or thoroughly inspected by the Designated Biologist(s) and/or the construction foreman/manager for the Covered Species or other animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a California tiger salamander is found, it shall be relocated as described in Conditions of Approval 8.18 and 8.19.
- 8.3. Use of Rodenticide and Poison. At no time during the life of the Project shall rodenticides or other poisons used in the control of burrowing animals be used by Permittee in the Project Area or within mitigation lands.

- 8.4. Dewatering. Sediment-laden water from dewatering shall be held in a settling container or discharged in an upland location where it will not drain directly into a stream or into small mammal burrows.
- 8.5. Vehicle checks. All contractors, their employees, and agency personnel shall check for the presence of Covered Species under and near stationary vehicles prior to operating the vehicles. If a Covered Species is discovered, the Designated Biologist shall have the authority to halt construction until the Covered Species leaves the area of its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area as required by Condition of Approval 8.18 and 8.19.
- 8.6. Decontamination of Clothing and Equipment. Any equipment that enters the water during construction shall be decontaminated before and after construction using U.S. Fish and Wildlife Service guidance to prevent the spread of aquatic diseases and invasive aquatic species.⁵ All equipment parts that may come into contact with the water, such as vehicle treads, buckets, etc., shall be decontaminated. Repeat decontamination is required only if the equipment is removed from the site, used within a different aquatic feature, and returned to the Project Area. Decontamination shall take place in an upland location, and any chemicals used during decontamination shall be prevented from entering aquatic features. Workers shall also decontaminate waders, boots, and other clothing that comes in direct contact with the water.
- 8.7. Temporary Covered Species Barrier. Prior to commencing any other Covered Activities, Permittee shall install a temporary barrier to prevent the Covered Species from dispersing into the staging areas within the Project Area. The barrier shall be designed to allow Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. The Designated Biologist shall inspect the barrier daily, and during and after storm events. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Permittee shall provide refuge opportunities, such as coverboards or straw wattles, along the exclusion fence on both sides of the fence. Permittee shall submit to CDFW for approval, the location and design of the barrier and refuge opportunities no less than 30 days prior to the proposed start of Covered Activities. The Designated Biologist shall inspect refuge areas each morning during and after rain events. Animals found within the interior fence shall be relocated outside the fence line no more than 300 feet from the Project boundary. California tiger salamanders found shall be relocated by the Designated Biologist per the Relocation Plan described in Conditions of Approval 8.18 and 8.19.

⁵ Refer to: U.S. Fish and Wildlife Service, August 2005. Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog, Appendix B - Recommended Equipment Decontamination Procedures.

California Tiger Salamander-Specific Measures

- 8.8. Seasonal Work Window. Permittee shall limit ground-disturbing Covered Activities involving excavation and heavy equipment use to between April 30 and October 31 until the expiration of this ITP. Restoration/revegetation activities are not confined to this timeline.
- 8.9. Seasonal Work Window Extension. Permittee shall adhere to the seasonal work windows required in Condition 8.8 unless no or low rainfall conditions persist. Permittee shall submit notices of work past October 31 to the CDFW Regional Representative at least 14 days prior to the expiration of the seasonal work window. Permittee shall submit a description of all Covered Activities conducted past October 31 to the CDFW Regional Representative on a weekly basis. If work is expected to continue, Permittee shall submit a 7-day weather forecast to the CDFW Regional Representative for the following week. If such work past October 31 results in areas previously considered temporarily-disturbed (for example, staging areas) to be restored past October 31 of the year of the impact, then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (see Conditions of Approval 6.15) and an amendment to the ITP may be required. If work during dry conditions is extended past October 31, the following conditions shall apply:
- 8.9.1. Non-linear work sites located within 0.5 miles of Covered Species aquatic habitat, including where equipment will be stored overnight, shall be completely fenced with wildlife exclusion fencing. All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads. The Designated Biologist shall survey the fence line for the Covered Species during evening or night-time low rainfall events.
- 8.9.2. During the adult California tiger salamander migration/active season from November 1 to June 15, the Project site shall not be accessed prior to 30 minutes before sunrise and no work beyond 30 minutes before sunset unless the Designated Biologist surveys for Covered Species prior to equipment moving or ground disturbance and unless otherwise approved in writing by CDFW.
- 8.9.3. All steep-walled holes or trenches more than six inches deep shall be covered overnight with boards or metal plates placed flush to the ground.
- 8.9.4. Erosion control such as straw wattles or silt fencing shall not be placed where they create a barrier to Covered Species movement between upland and aquatic habitat.
- 8.10. Dry Season Work Restriction. During the dry season of April 30 to October 31 of each year until the expiration of this ITP, Permittee shall limit Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and

contouring) to periods of low rainfall (less than 0.10 inches per 24-hour period). If rain exceeds 0.10 inches during a 24-hour period, work shall cease. Construction may resume 24 hours after the rain ceases when there is a less than a 60 percent (%) chance of precipitation in the 24-hour forecast, and humidity, as measured locally on-site under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept on-site and subject to inspection.

8.11. Daily Work Window. The California tiger salamander active season is defined as the period of time during which California tiger salamanders are above ground. California tiger salamander adults migrate to and from breeding ponds during the wet season. California tiger salamander metamorphs and juveniles migrate away from the ponds during the late spring, summer, and fall depending on pond hydroperiod and other variables. During the adult California tiger salamander migration/active season from November 1 to June 15, the Project site shall not be accessed prior to 30 minutes before sunrise and no work beyond 30 minutes before sunset unless the Designated Biologist surveys for Covered Species prior to equipment moving or ground disturbance and unless otherwise approved in writing by CDFW. Except when necessary for construction, or driver/pedestrian safety, lighting of the Project Area by artificial lighting during nighttime hours shall be minimized to the maximum extent practicable. Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area where the project is located. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.

8.12. Pre-Construction Survey, California Tiger Salamander. Prior to initiating Covered Activities, the Designated Biologist shall perform pre-construction surveys within the boundaries of the Project Area plus a 50-foot buffer zone, where feasible, around the construction area. The Designated Biologist(s) shall complete walking surveys of the Project Area prior to any ground-disturbing activity (such as soils deposition areas, road construction or improvement sites, or fence installation/repair sites), and shall follow earthmoving equipment to look for California tiger salamander during initial site grading. Grading activities shall be done in a manner that allows Designated Biologists to safely survey the area for California tiger salamander. A Designated Biologist shall survey the open areas adjacent to ongoing grading or scraping as the footprint expands. Multiple biologists may be necessary to survey the area appropriately. The Designated Biologist shall survey suitable habitat features, such as aquatic and upland areas and beneath woody debris, for California tiger salamander. The Designated Biologist shall conduct pre-construction surveys in conjunction with exclusion fencing installation (see Condition 8.7). If the Designated Biologist(s) or anyone else discovers California tiger salamander, the Designated Biologist(s) shall move the animal to a safe location nearby (see Conditions of Approval 8.18 and 8.18).

8.13. Delineation of Burrow Complexes. The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Condition 8.12)

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and within 100 feet of the Project footprint with posted signs, posting stakes, flags, and/or rope or cord. Signs, stakes, flags, and/or rope shall be clearly distinguishable from markings used to delineate work areas.

- 8.14. Pre-Construction Burrow Identification. The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of areas proposed for ground disturbance with flagging no-less-than five days prior to earthmoving activities in those areas. All burrows shall be avoided to the maximum extent practicable during earthmoving activities.
- 8.15. Open Trenches. To prevent inadvertent entrapment of California tiger salamander during construction, the Designated Biologist shall check all excavated open holes, sumps and trenches for Covered Species no later than 0900 each day for trapped animals. If a California tiger salamander is trapped in these features, the Designated Biologist shall remove and relocate the animal(s) to a safe location within suitable habitat (see Conditions of Approval 8.18 and 8.19) prior to the start of work activities at that site. At the close of each working day, the Designated Biologist shall ensure all excavated, steep-walled holes or trenches more than 6 inches deep are provided with one or more escape ramps constructed of earthen fill or wooden planks with a slope of 3:1 (run: rise). Before Permittee fills trenches or holes, the Designated Biologist shall thoroughly inspect them for trapped California tiger salamander. If at any time a trapped California tiger salamander is discovered by the Designated Biologist or any work crew member, the Designated Biologist shall move the animal to a safe nearby location.
- 8.16. Augering and Excavation. The Designated Biologist shall survey all augering and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.
- 8.17. Soil Stockpiles. Permittee shall place soil stockpiles where soil will not pass into potential California tiger salamander breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 et seq. Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.
- 8.18. California Tiger Salamander Relocation Plan. The Designated Biologist(s) shall prepare a California Tiger Salamander Relocation Plan (Relocation Plan). The Relocation Plan shall include, but not be limited to, an identification of the survey and hand excavation, capture, handling, and relocation methods; and identification of where the individuals will be relocated to. Relocation areas shall be identified by the Designated Biologist based upon best suitable habitat available and time of year and approved by CDFW prior to the start of Covered Activities. The Relocation Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities.

Covered Activities anywhere within the Project Area may not proceed until the Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.

- 8.19. California Tiger Salamander Relocation. The Designated Biologist shall relocate any California tiger salamander found within the Project Area to be impacted to an active rodent burrow system located no more than 300 feet outside of the Project Area unless otherwise approved by CDFW in writing. The Designated Biologist shall document both the capture and relocation areas by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 6.8). The Designated Biologist shall contact CDFW's Regional Representative within one working day of any relocation incidents. Incidents that do not result in mortality shall be reported in the monthly and final compliance report. At a minimum, the report of the incident shall include the time, location, and circumstances that led to the California tiger salamander being discovered and confined; the location where the California tiger salamander was relocated; and photographs of the incident. All locations shall be geo-referenced and detailed in text. All documentation shall be provided to the CDFW within 24 hours of California tiger salamander relocation.
- 8.20. Covered Species Handling and Injury. California tiger salamanders shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) (Attachment 2). If an injured California tiger salamander is found during the Project term, the individual shall be evaluated by the Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured salamander shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken by the Designated Biologist:
- a) If the injury is minor or healing and the salamander is likely to survive, the salamander shall be released immediately in accordance with the Conditions of Approval 8.18 and 8.19.
 - b) If it is determined that the California tiger salamander has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience 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 the CDFW and U.S. Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured California tiger salamander. The circumstances of the injury, the procedure

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followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.9.

8.21. Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a non-native barred tiger salamander (*Ambystoma tigrinum mavortium*) or California tiger salamander hybrid is found or suspected within the Project Area within 24 hours by calling CDFW's Regional Representative. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Covered Species Handling and Injury measures outlined in this ITP (see Condition of Approval 7.9).

Alameda Whipsnake-Specific Measures

8.22. Alameda Whipsnake Relocation. Permittee shall develop a Relocation Plan for Alameda whipsnake. Permittee shall quantify the amount, relative location, and quality of suitable habitat including and potential barriers or hazards to movement.

8.23. Daily Surveys. The Designated Biologist shall conduct walking, pre-construction surveys for Alameda whipsnakes prior to the initiation of Covered Activities each day including excavated/dewatered areas. In addition, the Designated Biologist shall walk in front of the earthmoving equipment while Covered Activities are being conducted, if it can be done safely. If an Alameda whipsnake is discovered, the Designated Biologist shall have the authority to halt construction until the Alameda whipsnake leaves the area of its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project.

8.24. Access Roads. The Designated Biologist shall inspect the entire access route for Covered Species each day when Covered Activities are occurring between March 15 and October 31 of each year. Inspections shall occur in the morning prior to Project related vehicle access (unless Project related vehicle traffic occurs prior to sunrise) and in the afternoon prior to Project related vehicles exiting the Project Area. If a Designated Biologist finds a dead Alameda whipsnake on the access route, Permittee shall consult with CDFW to determine appropriate contingency measures and shall implement the measures determined appropriate by CDFW.

8.25. Vegetation Marked for Protection. Permittee shall ensure vegetation is removed prior to grading. Prior to clearing and grubbing operations, the Designated Biologist shall clearly mark vegetation within the Project Area that shall be avoided. Vegetation outside the Project Area shall not be removed.

8.26. Vegetation Removal Methods. Where possible, Permittee shall use hand tools (e.g., trimmer, chain saw, etc.) to trim or remove vegetation. All vegetation removal shall be monitored by the Designated Biologist to minimize impacts to the Covered Species.

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 either purchase 2.06 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of 2.06 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 2.06 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.6 below.

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

9.1.1. Purchase of 2.06 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank is estimated at \$113,300.00.

9.1.2. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.6, calculated at \$4,000 per acre for 2.06 acre: \$8,240.00.

9.2. Covered Species Credits. Permittee shall purchase 2.06 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below.

OR:

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

9.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and

manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);

- 9.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 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)

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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. 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. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:
- 9.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.
- 9.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
- 9.4.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well

replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

9.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

9.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

9.6. Habitat Restoration. Permittee shall restore on-site the 2.06 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 6 months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 2.06 acres of temporary construction disturbance on-site, and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The Plan shall also indicate the best time of year for seeding to occur.

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

10.1. Security Amount. The Security shall be in the amount of **\$121,540.00**. 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:

- 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.
- Conservation Credit Bill of Sale

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 digitally sign and return the fully executed ITP as sent by CDFW via DocuSign. 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 (2081-2021-027-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Stacy Sherman, Acting Regional Manager
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road Suite 100
Fairfield, CA 94534
R3CESA@wildlife.ca.gov

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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

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

Marcia Grefsrud
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Telephone (707) 644-2812
Marcia.Grefsrud@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, Alameda County Water District. (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Vallecitos Channel Maintenance Project Mitigated Negative Declaration and Initial Study, (SCH No.: 2021030428) dated March 2021 that the Alameda County Water District adopted for Vallecitos Channel Maintenance Project on May 13, 2021. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

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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, subs. (a)-(b), 783.5, subd. (c)(2)].

CDFW finds based on substantial evidence in the ITP application, the Vallecitos Channel Maintenance Project Mitigated Negative Declaration and Initial Study, emails, the results of 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;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 2.06 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and

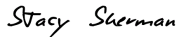
this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

Attachments:

- FIGURE 1 Map of Project
- FIGURE 2 Project Site Plan
- FIGURE 3 Habitat Map
- ATTACHMENT 1 Mitigation Monitoring and Reporting Program
- ATTACHMENT 2 Restraint and Handling of Live Amphibians
- 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 7/9/2021 _____.

DocuSigned by:

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 Stacy Sherman, Acting 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.

By:  _____ Date: 7/14/2021 _____

DocuSigned by: Ed Stevenson
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Printed Name: Ed Stevenson Title: General Manager

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