



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

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**GAVIN NEWSOM, Governor**

**CHARLTON H. BONHAM, Director**



January 26, 2022

Mr. Daniel Summa, Executive Vice President

DifWind Farms Limited VII

c/o EDF Renewables

15445 Innovation Drive

San Diego, CA 92128

[Daniel.Summa@edf-re.com](mailto:Daniel.Summa@edf-re.com)

Subject: Incidental Take Permit Application for the DifWind VII & IX Reclamation Project, 2081-2019-014-03, Alameda County

Dear Mr. Summa:

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

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

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

The permit will not take effect until the signed acknowledgement is received by CDFW. If you wish to discuss these instructions or have questions regarding the permit, please contact Ms. Marcia Grefsrud, Environmental Scientist, at (707) 644-2812 or [Marcia.Grefsrud@wildlife.ca.gov](mailto:Marcia.Grefsrud@wildlife.ca.gov); or Ms. Brenda Blinn, Senior Environmental Scientist (Supervisory), at (707) 944-5541 or [Brenda.Blinn@wildlife.ca.gov](mailto:Brenda.Blinn@wildlife.ca.gov).

Sincerely,

DocuSigned by:

*Erin Chappell*

B77F9A6211EF486  
Erin Chappell

Regional Manager

Bay Delta Region

*Conserving California's Wildlife Since 1870*



California Department of Fish and Wildlife  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534

California Endangered Species Act  
Incidental Take Permit No. 2081-2019-014-03

**DIFWIND VII & IX RECLAMATION PROJECT**

**Authority:**

This California Endangered Species Act (CESA) Incidental Take Permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

**Permittee:** DIFWIND Farms Limited VII and DIFWIND Farms Limited IX

**Principal Officer:** Daniel Summa, Vice President

**Contact Person:** Michael Azeka, (858) 521-3570, [Michael.Azeka@edf-re.com](mailto:Michael.Azeka@edf-re.com)

**Mailing Address:** DIFWIND Farms Limited VII  
c/o EDF Renewables  
15445 Innovation Drive  
San Diego, CA 92128

**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 6.8 of this ITP.

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

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

## **Project Location:**

The DifWind VII & IX Reclamation Project (Project) is located north of Interstate 580 (I-580) east of the City of Livermore in Alameda County (see Figure 1). The Project area comprises 14 land parcels between I-580 and the Contra Costa/Alameda County line. The Project is located at approximately 37.736760°, -121.641571° and 37.780576°, -121.640113°. The Project area encompasses existing wind power components to be decommissioned on approximately 3,000 acres of privately-owned land which is under two land ownerships (11 parcels referred to below as the Elworthy property and 3 parcels as the Corbett property).

## **Project Description:**

The Project includes the decommissioning and reclamation of the DifWind VII and DifWind IX wind generation projects in the Altamont Pass Wind Resource Area (APWRA). The decommissioning and reclamation of these two sites are hereafter collectively referred to as the Project. Project activities include removal of wind turbine foundations, electrical facilities, roads, and other supporting infrastructure. Overall, removal of these facilities is expected to temporarily impact 17.3 acres of grassland habitat.

Removal of existing wind turbines, blades, towers, transformers, spare parts, storage containers, and meteorological towers were performed in 2016 and 2017. CDFW did not receive a request for take coverage for activities conducted in 2016 and 2017.

The Project includes both ground-disturbing and restoration activities. Ground-disturbing activities primarily consist of excavating and removing wind turbine and transformer foundations, grading at foundation pads, reclaiming roads, and site restoration. Primary decommissioning work entails use of ground-disturbing vehicles, construction-type equipment, foundation excavations, grading, and similar activities to remove foundations, roads, and other infrastructure. Reclamation entails ground disturbance such as grading, soil disking, seeding, and similar activities.

### *Transformer Slab Foundations*

Forty-one transformer slab foundations will be part of the decommissioning. All transformers and access driveways are located on previously disturbed compacted soil areas less than 30 feet from existing roads, and small amounts of disturbance will result from their removal. Each concrete slab foundation is approximately 17 feet long, 10 feet wide, and 18–24 inches thick. Approximately 10.8 cubic yards (CY) of concrete will be jackhammered and removed for each transformer. The slab foundation remnants will be lifted onto a transport truck then transported to the nearby Altamont Landfill or an appropriate permitted disposal facility for disposal. Cables and conduit will be cut to 18 inches below surface grade and the site smoothed, seeded, and revegetated. None of the transformers that were previously on the site remain. Any spills or discharge of fluids will be immediately contained, absorbed, and cleaned up.

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### *Miscellaneous Slab Pads*

During decommissioning, approximately 14 small concrete slab pads will be removed. The pads were in place to support minor Project components and are approximately 5 feet long, 5 feet wide, and 18-24 inches thick. Approximately 1.8 CY of concrete will be jackhammered and removed for each pad. Like the transformer slab foundations, the pads will be lifted onto a transport truck and taken to the nearby Altamont Landfill or an appropriate permitted disposal facility.

### *Junction Boxes*

During decommissioning, approximately 17 small, below ground junction boxes located along buried electrical lines will be dug up and removed. Removal of the junction boxes will consist of digging up or breaking up the concrete box within 18 inches of the surface, cutting any cable ends to at least 18 inches below grade, loading waste material onto a truck, and transporting these materials off-site for disposal at the landfill. Additional disturbance will result from junction box removal because the boxes are located 20–50 feet from existing roads. Boxes measure approximately 2 feet by 4 feet and contain approximately 0.3 CY each of concrete and miscellaneous material to be disposed.

### *Wind Turbine Foundations*

Removal of the 308 wind turbine foundations will involve workers demolishing the foundations using jackhammers or similar tools, cutting the steel bolts, and hauling it off-site to the Altamont Landfill located contiguous with the DifWind VII site. The above grade portion of each foundation is approximately 9 feet long by 9 feet wide or 12 feet in diameter. There are 88 pier type foundations and 220 pedestal type foundations. The pedestal type foundations extend out 20 feet by 20 feet approximately one foot below the existing grade. The spread footing foundations entail a disturbance area of 40 feet by 50 feet and the pedestal type foundations entail a similar disturbance of 40 feet by 50 feet. Ten percent of the foundations are close to existing cut or fill slopes, these will require a slightly larger disturbance area of 50 feet by 50 feet, and another 10 percent of the foundations will require 50 feet by 60 feet. Assuming removal up to the foundation depth of 6 feet, approximately 32.8 CY of concrete will be removed per foundation on the Elworthy property, representing 2/3 of the foundations. For the remaining 1/3 of foundations, 4.5 CY of concrete will be removed per foundation because the depth of removal is only 18 inches on the Corbett property. The remaining foundation pad will be covered with soil, smoothed and contoured to provide stability and minimize erosion, reseeded, and stabilized.

No soil will be imported. When the foundations and associated roads were constructed in the mid-1980s gravel was imported and spread on the roads and turbine pads, so they are on average 4 inches to 8 inches above surrounding grade. The surface gravel of these pads and 14.7 miles of reclaimed roads (varying in depths of 4 to 8 inches) will be scraped thereby exposing soil to the surface, and the old gravel used to fill in the foundation depressions. The

exposed soil along the road widths and foundation areas will be smoothed, soil stabilized and re-seeded. Consequently, no depressions will remain after foundation removal and filling of the foundation holes.

### **Underground Cables**

Underground collection cables were previously de-energized, copper cable removed, and cut back to a minimum of 18 inches below existing grade and left in place to minimize site disturbance. Any underground cables used by parties other than the Permittee will remain in operation and will not be removed as part of this Project.

### **Access Road and Surface Restoration**

Approximately 14.7 miles of access roads (located on the Elworthy land parcels only), including finger roads/pads used to maintain the DifWind VII and IX turbines, will be disked or smoothed and contoured to minimize erosion, seeded, and restored. Most of the roads in the Project area are main access roads used by other wind farm operators in the APWRA and/or by the landowner. These roads will remain in place.

The former access roads and other surface areas disturbed by the above removal activities will be restored in accordance with a grassland restoration plan. All areas to be restored will be scarified with a disk or roller to break up the compacted surface and to fill voids for groundcover seeds to take hold, prevent erosion, and soften the visual impact of the former roads and pads. Any depressed areas associated with foundation removal will also be disked, smoothed, or contoured to fill voids and encourage revegetation. Compacted surfaces will be disked to a depth of approximately 6 inches. Scarification and grading will be performed with a tractor, motor grader, or similar equipment, and seeding will be conducted by hand or mechanical seed application equipment. Where necessary to enhance soil stability and regrowth, disked, smoothed, or contoured areas will be mulched and seeded to prevent erosion and facilitate natural revegetation.

Some Project components (i.e., underground cables) are proposed to be left in place and abandoned, pending approval by Alameda County and local landowners, if removal of the facilities is deemed too destructive to habitat. The maintenance building and yard will remain; these structures have been transferred to an unrelated party and will not be decommissioned. Existing turbine and transformer foundations to be removed are shown in Figure 2.

Proposed restoration activities are estimated to result in a total of 28.9 acres of restored annual grassland habitat for California tiger salamander and other wildlife within the Project area. Additional details are provided in the table below.

**TEMPORARY HABITAT IMPACT AND RESTORATION AREA SUMMARY**

Facility	Dimensions of Existing Structure (feet)	Dimensions of Disturbance Area per Structure (feet)	Impact Area per Structure (acres)	Quantity Removed	Temporary Impact (acres)	Area Restored (acres)
Transformers	18 x 9	30 x 30	0.0162	41	0.504	0.16
Misc. pads	5 x 5	12 (diameter)	0.0026	14	0.028	0.008
Junction boxes	n/a (buried)	4 x 2	0.002	17	0.003	n/a
Turbine foundations (pedestal type)	20 x 20	40 x 50	0.494	220	8.838	2.020
Turbine foundations (spread type)	12 (diameter)	40 x 40	0.0288	88	4.343	0.228
Roads	14.7 miles x 15 ft	1 ft on each side of road	n/a	n/a	3.564	26.727
Total					17.3	28.9

**Covered Species Subject to Take Authorization Provided by this ITP:**

This ITP covers the following species:

**Name****CESA Status**

1. California tiger salamander (*Ambystoma californiense*) Threatened<sup>3</sup>

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

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

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include excavation of concrete turbine and transformer pads, excavation of underground cable, disking, grading, scarification and re-contouring of roads and former pads, transport of supplies and workers to and from the Project, storage of construction materials and equipment on site, grading, trenching, and other earthmoving activities associated with construction, reclamation, re-contouring and restoration activities, vegetation management, and/or relocation activities prescribed by this ITP (Covered Activities).

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

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as destruction of burrows and dens that the Covered Species inhabit, by being crushed under moving vehicles and equipment, and/or disturbance in the vicinity of dens or burrows. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of capture of the Covered Species from relocation of the Covered Species to minimize the potential of mortality. 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: any location within the Project area or along access routes (collectively, the Project Area).

The Project is expected to cause the temporary loss of 17.3 acres of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from tunneling and capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, 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.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental

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Impact Report (SCH No.: 2010082063) certified by the Alameda County Community Development Agency on November 12, 2014 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

- 3. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Habitat Conservation Plan 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.
- 4. 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.

## **5. General Provisions:**

- 5.1. 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.
- 5.2. 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 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- 5.3. 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. The Designated Biologist shall contact the CDFW representative immediately regarding



non-compliance issues. The Designated Biologist shall have the authority to consult with the CDFW representative directly.

- 5.3.1. Permittee shall accommodate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP due to a conflict with Project construction, then the Designated Biologist shall notify the CDFW representative immediately.
- 5.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 5.5. Construction Monitoring Binder. The Designated Biologist shall maintain a construction-monitoring notebook and binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project site upon request by CDFW.
- 5.6. 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 picked up and removed daily.
- 5.7. 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.

- 5.8. 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.
- 5.9. 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.
- 5.10. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route 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.
- 5.11. 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.
- 5.12. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

#### *Temporary Impacts and Restoration*

- 5.13. Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the impact, and no

additional ground disturbing activities shall occur; (2) if the impact area is within 0.5 mile of a suitable breeding pond for the Covered Species, all work shall be completed within this area and exclusion fencing and/or other barriers, such as erosion control material shall be removed or modified by October 31 of the same calendar year to allow 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 5.14).

5.14. Vegetation Restoration. Permittee shall prepare a Grassland Restoration Plan (Restoration Plan) to restore the decommissioned roads and foundations, and the 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 review and approval no less than 15 days prior to the start of restoration activities. The Restoration Plan shall include results of soil analysis which will include ground-truthing soil conditions (e.g., type, texture, chemical composition and pH) by taking a soil sample and submitting the sample to an analytical lab. The Restoration Plan shall identify plant species damaged or removed during Project activities. The Restoration Plan shall include the following restoration standards:

5.14.1. Reference Sites. Prior to initiating ground disturbance, Permittee shall establish a representative number of transects within disturbed areas ("treatment") which will each be associated with a reference ("control") site (*i.e.*, site within intact natural habitat that will be used as a model for restoration activities). Each treatment-control transect set shall be appropriately placed and numbered for identification purposes. The slope, aspect, and hydrological conditions shall be similar for both the site to be restored and the reference site. To document existing plant communities, Permittee shall photograph the treatment and control sites during the spring (March to June) when most flowering plants are in bloom. Permittee shall also evaluate species composition at the reference site. Permittee shall use information collected at the reference site to guide restoration activities.

5.14.2. Soil Compaction. Permittee shall ensure that soil compaction is between 85 and 90% of maximum dry density to facilitate small mammal burrow establishment and vegetation development and growth. Reclamation and decompaction requirements to ensure compacted areas are suitable for revegetation will be completed as required in the Grassland Restoration Plan.

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

- Gravel shall be removed from restored areas to the extent necessary to meet performance standards;

- Roads shall be excavated below the compacted gravel surface;
- Permittee may import and place up to three (3) feet of soil in compacted areas, such as former roads and turbine pads, to increase the potential for vegetation establishment. Fill shall not be placed for purely aesthetic purposes, as fill has the potential to result in unnecessary and avoidable take of Covered Species. The upper one (1) foot of fill shall consist of topsoil;
- To the maximum extent feasible, topsoil shall be salvaged from within on-site work areas prior to construction. Imported fill soils shall be limited to weed-free topsoil similar in texture, chemical composition and pH to soils found at the reference site. At least two soil samples from each off-site fill source shall be submitted to a soil sampling lab for analysis. If Permittee chooses to import fill from an off-site location, CDFW and the property owner(s) shall be notified of the source of the fill at least 30 days in advance and shall be given the opportunity to inspect the fill and its source. If the fill source is deemed to be inappropriate (e.g., the type of soil is inappropriate or the soil would be sourced from a site with a major weed infestation), CDFW may require an alternative source of fill;
- Drivers might attempt to use adjacent shoulders for parking or to avoid ruts that form in roadways. Therefore, to protect restored habitat adjacent to permanent roads, permanent roads shall be kept in good repair, and barriers or fill shall be placed between the edge of the road and restored shoulders at the same grade to restrict vehicular access;
- Minor re-contouring may be conducted; however, Permittee shall limit grading, compaction, fill, and all other earthmoving activities to the Project Area. Soils shall be protected from wind erosion using a biodegradable erosion control blanket or appropriate mulch cover (i.e. hydroseed or mulch) until vegetation is established. Seed shall be applied in the early fall, between October 15 and October 31. If feasible, seed shall be applied immediately prior to the first rain event;
- 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 as soon as possible, but no later than October 31 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.
- No more than 5 percent (%) of the vegetation in each restoration site shall consist 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/>). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner.

5.14.4. Monitoring and Maintenance. Permittee is responsible for monitoring and maintaining the restored areas for a period of five (5) years or until the Restoration Plan success criteria have been met, whichever is longer. For 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 5.14.2, Permittee may submit the following report at the end of Year 1 and annually thereafter.

If the survival and/or cover requirements are not meeting the performance standards outlined in Condition of Approval 5.14.2, 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 monthly restoration reports (see Condition 6.5) to CDFW until the standards have been met. Replacement plantings shall be monitored with the same survival and growth requirements for five (5) years after planting.

5.15. CDFW Review of Monthly Report. If CDFW documents in writing, that the take authorization for temporary impacts has been exceeded, Permittee shall cease all

new construction activities, if directed by CDFW in writing, until appropriate take authorization has been provided. If CDFW determines in writing that take authorization for temporary impacts is likely to be exceeded in the coming month, Permittee shall revise the Project construction schedule (see Condition 5.19) in order to ensure temporary impacts meet the temporary impact criteria according to Condition 5.13. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.

### *Invasive Species*

- 5.16. 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 5.18). 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/>).

- 5.17. Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention 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/>.

- 5.18. 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 5.16). Permittee shall submit the Invasive Plant Plan to CDFW for approval within 30 days prior to the start of restoration activities. The Designated Biologist 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*

- 5.19. Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. The construction schedule shall identify the approximate beginning and completion date of each phase of the Project (such as decommissioning, restoration, etc.) and for each Project activity within those phases. 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.
- 5.20. 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 fire or other natural disaster or 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.
- 5.21. 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.
- 5.22. 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.
- 5.23. 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.

- 5.24. 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.
- 5.25. 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.
- 5.26. Wildfire Prevention. If the Project site is within a high or very high Fire Hazard Severity Zone (refer to <http://frap.fire.ca.gov/projects/hazard/fhz.html>) or the risk of fire danger is high based on 7-day predictions from National Oceanic and Atmospheric Administration forecasts, Permittee shall mow access pathways, staging areas and work areas before allowing heavy equipment and vehicles to access the site. Non-living vegetative debris shall be cleared from around the immediate work footprint, and basic fire suppression supplies shall be kept on-site at all times. Disking and/or tilling are not permitted for fire prevention without prior written permission from CDFW.
- 5.27. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

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

- 6.1. 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.
- 6.2. Notification of Non-compliance. The Designated Biologist 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 and Designated Biologist shall report any non-compliance with this ITP to CDFW within 24 hours.

- 6.3. Compliance Monitoring. The Designated Biologist(s) shall be on-site full-time daily when Covered Activities occur. The Designated Biologist(s) shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and 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.
- 6.4. Photo Monitoring. No less than 10 photo monitoring stations shall be established to provide representative views of Project decommissioning, construction, restoration and reclamation activities. Photo monitoring station results shall contribute to the assessment of temporary impacts and restoration work by CDFW; therefore, Permittee should ensure that photo monitoring stations numbers and locations are sufficient to document temporary impacts and restoration success. Photo monitoring shall be done as follows:
  - 6.4.1. Stations should be located in areas that allow for unobstructed views and a field of vision of approximately 2,000 feet.
  - 6.4.2. At least one photograph shall be taken at all stations prior to ground-breaking activities, and each month thereafter until construction and initial restoration is complete. Photo documentation of restoration success shall occur every three months following initial restoration until restoration success criteria are reached.
  - 6.4.3. Photo monitoring station locations shall be provided to CDFW in a geographic format with the coordinate system identified.
  - 6.4.4. If CDFW or the Designated Biologist(s) determines that additional monitoring stations are necessary, the locations shall be added to the inventory of photo monitoring stations.
  - 6.4.5. During each photo monitoring cycle, all stations shall be visited within two days.
- 6.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.3 and 6.4 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 detail approximate Project impacts in acres, separated into permanent and temporary impacts. Temporary impacts shall be categorized as defined in Condition of Approval 5.13. The temporary impacts category shall: (1) identify and describe the temporary impacts to date; (2) describe the location, acres, and type of restoration actions that have occurred; and (3) include all monitoring information required by the Restoration Plan described in Condition of Approval 5.14.

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 by the 5th working day of the following month. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud ([Marcia.Grefsrud@wildlife.ca.gov](mailto: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.

- 6.6. 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 6.5; (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, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 6.7. CNDDDB Observations. The Designated Biologist shall notify the CDFW Representative daily when a covered Species is seen or taken. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. The Designated Biologist shall provide the GPS coordinates and photos

of the observation to CDFW email at [Marcia.Grefsrud@wildlife.ca.gov](mailto:Marcia.Grefsrud@wildlife.ca.gov) within 24 hours of the observation.

- 6.8. 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.
- 6.9. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW email at [Marcia.Grefsrud@wildlife.ca.gov](mailto:Marcia.Grefsrud@wildlife.ca.gov) and (707) 644-2812 (direct line of CDFW Regional Representative). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.
- 6.9.1 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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Incidental Take Permit  
 No. 2081-2019-014-03  
 DIFWIND FARMS LIMITED VII AND DIFWIND FARMS LIMITED IX  
 DIFWIND VII & IX RECLAMATION PROJECT

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. 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:

- 7.1. Vehicle Speed Limit. Permittee, Designated Biologist(s) and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 15 miles per hour when traveling through the Project Area.
- 7.2. 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 Covered Species is found, it may be relocated as described in Condition of Approval 7.21.
- 7.3. Inspection of Reclaimed Transformer Pads Prior to Removal. To-be-reclaimed transformer pad areas shall be inspected by the Designated Biologist no more than two weeks prior to removal of the pad to determine the presence and extent of any burrows. Survey results, including photographs of burrows, shall be provided to CDFW at least one week prior to initiation of reclamation of the pads. If burrows are found around any of these transformer pads located within 2,230 feet of a potential breeding pond Permittee shall carefully lift the pad, if feasible, and excavate the burrow and relocate any Covered Species individuals found prior to importation of fill and re-contouring the area.
- 7.4. Excavation of Refuge Habitat. All excavation of potential refuge features, including small-mammal burrows under transformer pads shall be carried out by hand by the Designated Biologist. Tool use for excavation shall be limited to a hand trowel or garden spade. Burrows shall be excavated to the terminus of each branch or until the burrow diameter is less than 5 inches. The Designated Biologist should wear protective clothing and leather gloves during excavation as rattlesnakes may occupy small mammal burrows.

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DIFWIND FARMS LIMITED VII AND DIFWIND FARMS LIMITED IX  
DIFWIND VII & IX RECLAMATION PROJECT

- 7.5. 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.
- 7.6. Covered Species Handling and Injury. If an injured Covered Species is found during the Project term, the Designated Biologist shall evaluate the individual and 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 Designated Biologist shall place the injured individual in a safe and shaded location. Any injured Covered Species shall be placed in a shaded container and kept moist and 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). 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:
- 7.6.1. If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately (see Conditions of Approval 7.22 and 7.26);
- 7.6.2. If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then 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 CDFW and USFWS. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed, and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.10.
- 7.7. 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.
- 7.8. Seasonal Work Window Extension. Permittee shall adhere to the seasonal work windows required in Condition 7.7 unless no or low rainfall conditions persist (refer to Condition of Approval 7.9). 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 Condition of Approval 5.13) and an amendment to the ITP may be required. If work during dry conditions is extended past October 31, the following conditions shall apply:

- 7.8.1. 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.
- 7.8.2. All work and vehicle travel shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.
- 7.8.3. All steep-walled holes or trenches more than 6 inches deep shall be covered overnight with boards or metal plates placed flush to the ground.
- 7.8.4. 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.

If Permittee requests ground-disturbing work to be conducted past October 31 when rainfall has exceeded amounts described in Condition of Approval 7.9 then an Amendment to the ITP shall be required.

- 7.9. 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.
- 7.10. Daily Work Window. The Covered Species active season is defined as the period of time during which Covered Species are above ground. Covered Species adults migrate to and from breeding ponds during the wet season. Covered Species 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 Covered Species migration/active season from November 1 to June 15, all Project earth-disturbing activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise with the exception of deliveries that cannot feasibly be made during the day due to size of delivery, traffic, or other constraints. Such deliveries shall include access within the Project Area via established roadways and unloading within existing graded areas. Limited exceptions to this schedule may occur if necessary, to construct WTG towers or pour concrete foundations. 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.

- 7.11. Pre-Construction Survey Covered Species Surveys. 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 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 Covered Species during initial site grading. Ground disturbing activities shall be done in a manner that allows Designated Biologists to safely survey the area for Covered Species. A Designated Biologist shall survey the open areas adjacent to ongoing ground disturbing 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 Covered Species. The Designated Biologist shall conduct pre-construction surveys in conjunction with exclusion fencing installation (see Condition 7.12). If the Designated Biologist(s) or anyone else discovers the Covered Species, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition of Approval 7.21).
- 7.12. Exclusion Fencing Near Aquatic Features. To prevent Covered Species from entering the construction or staging area, exclusion fencing or drift-fence with associated pitfall traps shall be constructed in strategic locations and in and around all work areas within 500 feet of all aquatic features. The barrier shall be designed to allow the Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. Refuge opportunities shall be placed along the fence where appropriate. Permittee shall coordinate with CDFW and USFWS on a fencing plan and shall submit the design to CDFW for approval no less than 30 days prior to the proposed start of Covered Activities. Exclusion fencing shall be installed prior to the start of Covered Activities and shall be placed within 10 feet of the edge of work

areas or other appropriate distance in consultation with, and approved by, CDFW and USFWS. Permittee shall maintain the barrier throughout all construction activities. The Designated Biologist shall inspect the area prior to installation. The interior and exterior of the exclusion fencing shall be inspected by the Designated Biologist at least once daily before 0900 each day to ensure that no Covered Species are trapped against the fencing, where they could desiccate or be predated upon. If the fence barrier is left in place from November 1 to June 15, the Designated Biologist shall also inspect the fence daily before 0900 each day. Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects.

The barrier shall remain in place until the Permittee completes the Covered Activities in that area and construction equipment has been removed from the site. The Designated Biologist shall relocate any Covered Species found along the fence. The Permittee shall avoid damage to small mammal burrows to the maximum extent possible during installation of the exclusion fencing.

Permittee shall also ensure that silt fencing and/or other erosion control methods used to prevent sediment or other debris from passing into Covered Species' aquatic habitat that is within 500 feet of Project construction activities does not create a barrier to Covered Species movement.

- 7.13. Delineation of Burrow Complexes. The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Condition 7.11) 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.
- 7.14. Pre-Construction Burrow Identification. The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of ground disturbing activities, electrical collection lines, or turbine pads 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.
- 7.15. Trenching and Mowing. Prior to trenching, Permittee shall mow vegetation along the fence line to the width necessary to accommodate the trenching equipment and a walking buffer, to facilitate locating and avoiding burrows and Covered Species that may be present within the Project Area. The Designated Biologist will perform clearance surveys (refer to Condition of Approval 7.11) within the area that the Permittee will clear immediately prior to mowing. Permittee shall not disk or till Covered Species habitat other than for road decommissioning and reclamation purposes.
- 7.16. Open Trenches. To prevent inadvertent entrapment of Covered Species 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 Covered Species is trapped in these features, the Designated Biologist shall remove and relocate the animal(s) to a safe location within suitable habitat (see Condition of Approval 7.20) 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 Covered Species. If at any time a trapped Covered Species is discovered by the Designated Biologist or any work crew member, the Designated Biologist shall move the animal to a safe nearby location.

- 7.17. Augering and Excavation. The Designated Biologist shall survey all augering and excavation soils material for Covered Species. 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.
- 7.18. Soil Stockpiles. Permittee shall place soil stockpiles where soil will not pass into potential Covered Species breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 *et seq.* Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.
- 7.19. Covered Species Checks. Before the start of work each morning, the Designated Biologist shall check for Covered Species individuals under all vehicles, equipment, materials, or otherwise suitable locations for salamanders to hide. Workers shall inspect under vehicles and equipment for Covered Species before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist. The Designated Biologist shall follow initial grading equipment to look for Covered Species. All ruts and holes near root structures, foundations, abutments, etc., shall be inspected for Covered Species prior to and during excavation or removal. If a Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the individual as required by Condition of Approval 7.20.
- 7.20. Relocation<sup>4</sup> of Covered Species. Permittee shall develop a Relocation Plan for Covered Species and submit it to CDFW for approval at least 30 days prior to ground-disturbing activities occurring within 1.3 miles of known Covered Species

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<sup>4</sup> Relocation refers to the transport and release of a plant or animal immediately outside of an area of disturbance. The distance that the plant or animal is to be moved is limited to the minimum distance needed to promote the safety of the individual. Relocation of species beyond the immediate vicinity of capture (i.e., from one site to another) is not authorized as doing so could increase intra-species competition, attract predators, or spread disease.

breeding pools or in suitable upland habitat. Permittee shall quantify the amount, relative location, and quality of suitable habitat (e.g., breeding, upland, and dispersal habitat) including invasive and non-native species present, available upland burrows, and potential barriers for movement. The Designated Biologist shall relocate any Covered Species individuals within the Project Area impacted by Covered Activities to an active rodent burrow system or appropriate breeding pond located no more than 250 feet outside of the work area and described in the Relocation Plan, unless otherwise approved in advance by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 7.6). 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 Covered Species being discovered and confined; the location where the Covered Species was relocated; and photographs of the incident. All locations shall be geo-referenced and detailed in text.

- 7.21. Decontamination of Clothing and Equipment. Any equipment that enters the water during construction shall be decontaminated before and after construction using USFWS guidance to prevent the spread of aquatic diseases and invasive aquatic species.<sup>5</sup> 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.
- 7.22. 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 suspected California tiger salamander/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative. CDFW. 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 Capture and Handling measures outlined in this ITP (see Condition 7.6). Permittee shall consult CDFW to determine measures to address non-native or hybrid populations.

## 8. Habitat Management Land Acquisition and Restoration:

CDFW has determined that permanent protection and perpetual management of

<sup>5</sup> 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.

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 a total of 17.3 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) OR shall provide for both the permanent protection and management of a total of 17.3 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below. Permittee shall provide compensatory habitat consistent with the conservation priorities described in the East Alameda County Conservation Strategy (Chapter 3, dated October 2010) for the Covered Species as confirmed by CDFW.

Compensatory habitat shall include both upland and Covered Species aquatic breeding habitat through preservation, restoration, enhancement, and/or creation of pond habitat that is the same or better quality as habitat that will be impacted. 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.

Permittee shall also restore on-site 17.3 acres of temporarily-impacted Covered Species habitat pursuant to Condition of Approval 8.6 below and shall restore 28.9 acres of existing access roads. If any temporary impacts do not meet the criteria identified in ITP Conditions of Approval 5.13 and 5.14, then CDFW shall require compensatory mitigation to offset the additional Project temporal impacts. If Permittee does not complete seeding of temporary impact areas by October 31 of the year of the impact, but restores impact areas within 2 years of the impact consistent with Conditions of Approval 5.13 and 5.14, then CDFW shall consider those disturbed areas as semi-permanent, and require compensatory mitigation at a 2:1 ratio (acres of mitigation: acres of impact). If Permittee does not restore areas considered temporarily-disturbed within 2 years, then CDFW shall consider those areas as permanent impacts, and require compensatory mitigation at a 3:1 ratio (acres of mitigation: acres of impact).

No take beyond the temporary loss of 17.3 acres of habitat for the Covered Species and restoration of 28.9 acres of access roads to habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts. This mitigation requirement will be identified by CDFW in writing and shall be subject to an amendment as provided by California Code of Regulations, Title 14, section 783.6,

subdivision (c), and other applicable regulations and law.

- 8.1. 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:

8.1.1. Purchase of 17.3 acre of Covered Species credits from a CDFW-approved mitigation or conservation bank is estimated at **\$830,400.00**.

8.1.2. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.6, is estimated at **\$101,150.00**.

- 8.2. Covered Species Credits. Permittee shall purchase 17.3 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 9 below.

OR:

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

8.3.1. 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);

8.3.2. 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 2B) identifying the land to be purchased or

property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species. HM lands shall meet the minimum habitat requirements for the Covered Species including, but not limited to one or more aquatic features on-site which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) or adjacent to aquatic features which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) and already conserved and managed to the satisfaction of CDFW for the Covered Species; no less than 100 acres of suitable upland or adjacent to suitable upland already conserved and managed for the Covered Species;

- 8.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). 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;
- 8.3.4. 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.
- 8.3.5. 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>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 8.3.6. 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 (including pond 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.

- 8.4. Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 8.3.5. 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.

- 8.4.1. 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);

- 8.4.2. 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.
- 8.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.
- 8.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:
- 8.4.2.2.1. 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.
- 8.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
- 8.4.2.2.3. 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.
- 8.4.3. 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.

- 8.5. 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.
- 8.6. Habitat Restoration. Permittee shall restore on-site the 17.3 acres of Covered Species habitat that will be temporarily disturbed during construction and to pre-Project or better conditions and shall restore 28.9 acres of existing access roads to Covered Species habitat. Within 6 months of issuance of this ITP, the Permittee shall prepare a Restoration Plan pursuant to ITP Condition 5.14 to facilitate revegetation of the 17.3 acres of temporary construction disturbance on-site and the restoration of 28.9 acres of existing road, and shall ensure that the Restoration Plan is successfully implemented by the contractor. The Restoration Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods.

## 9. 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:

- 9.1. Security Amount. The Security shall be in the amount of **\$931,550.00**. This amount is based on the cost estimates identified in Condition of Approval 8.1 above.
- 9.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. The Permittee shall obtain CDFW written approval of any security before its execution.
- 9.3. 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.
- 9.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.



- 9.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 9.6. 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.
- 9.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
- Written documentation of the acquisition of the HM lands;
  - Copies of all executed and recorded conservation easements;
  - Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
  - Timely submission of all required reports.

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

#### **Amendment:**

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

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

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations,

or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

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

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

### **Notices:**

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

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

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by 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 (2081-2019-014-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

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

and a copy to:

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Incidental Take Permit  
No. 2081-2019-014-03  
DIFWIND FARMS LIMITED VII AND DIFWIND FARMS LIMITED IX  
DIFWIND VII & IX RECLAMATION PROJECT

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

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

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](mailto: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 Community Development Agency (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Altamont Pass Wind Resource Area Repowering Final Program Environmental Impact Report (PEIR) (State Clearinghouse No. 2010082063), dated October 2014 that the Alameda County Community Development Agency certified for Altamont Pass Wind Resource Area Repowering Project on November 17, 2014. At the time the lead agency certified the PEIR 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 PEIR 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.

Incidental Take Permit  
No. 2081-2019-014-03  
DIFWIND FARMS LIMITED VII AND DIFWIND FARMS LIMITED IX  
DIFWIND VII & IX RECLAMATION PROJECT

## Findings Pursuant to CESA:

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. [Fish and Game Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds, (a)-(b), 783.5, subd. (c)(2)].

CDFW finds based on substantial evidence in the ITP application, CDFW finds based on substantial evidence in the ITP application, Altamont Pass Wind Resource Area Repowering Final PEIR, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (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) restoration and 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 17.3 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:

FIGURES 1	Map of Project Area
FIGURE 2	Map of Structures to be Removed
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Restraint and Handling
ATTACHMENT 3A, 3B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

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

on 1/26/2022.

DocuSigned by:

*Erin Chappell*

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Erin Chappell, Regional Manager  
Bay Delta Region

#### ACKNOWLEDGMENT

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

DocuSigned by:

*Daniel Summa*

By:

C4ABCC8A943D4A7...

Date: 1/26/2022

Printed Name: Daniel Summa

Title: Executive Vice President

Incidental Take Permit  
No. 2081-2019-014-03

DIFWIND FARMS LIMITED VII AND DIFWIND FARMS LIMITED IX  
DIFWIND VII & IX RECLAMATION PROJECT



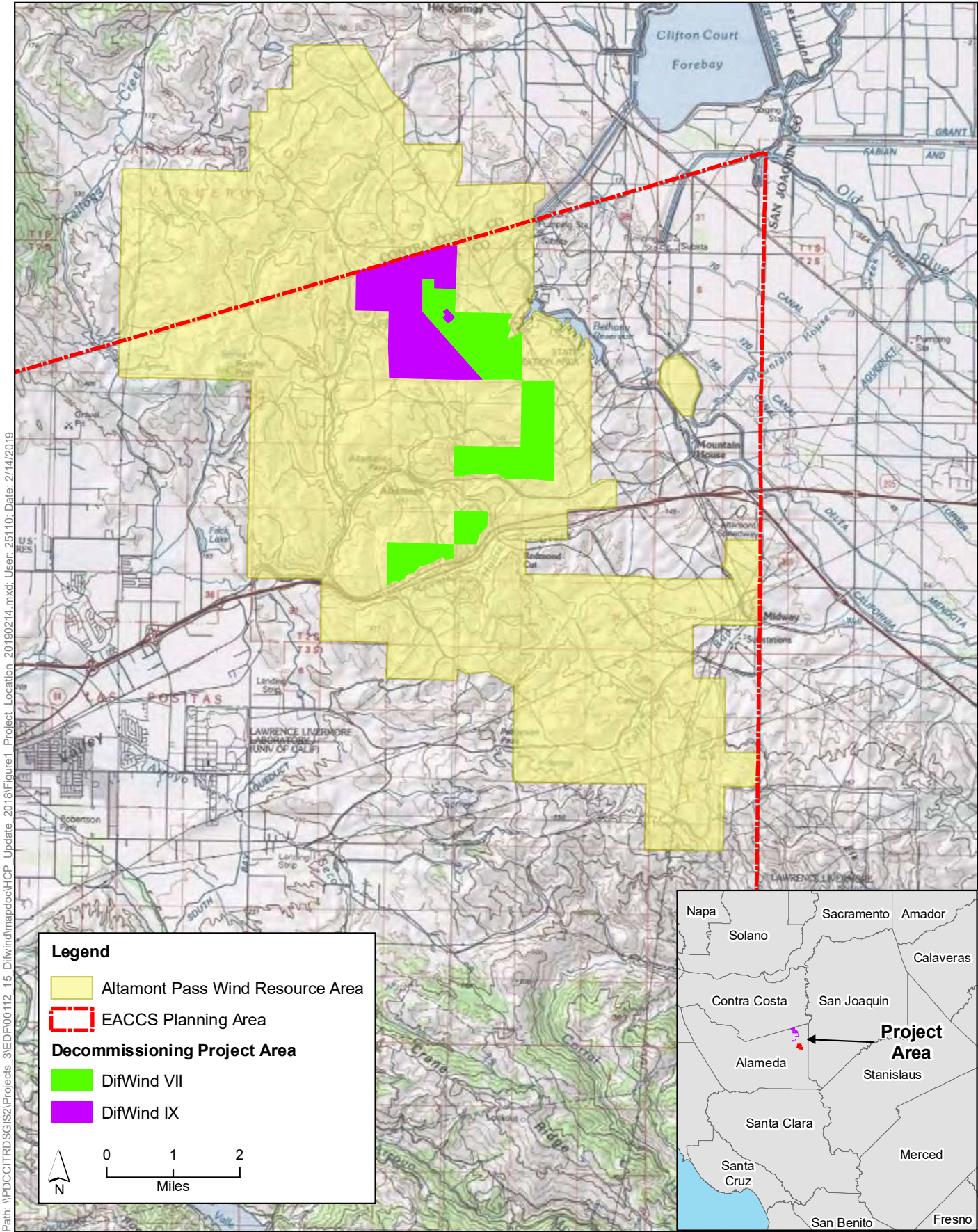


Figure 1  
Project Location





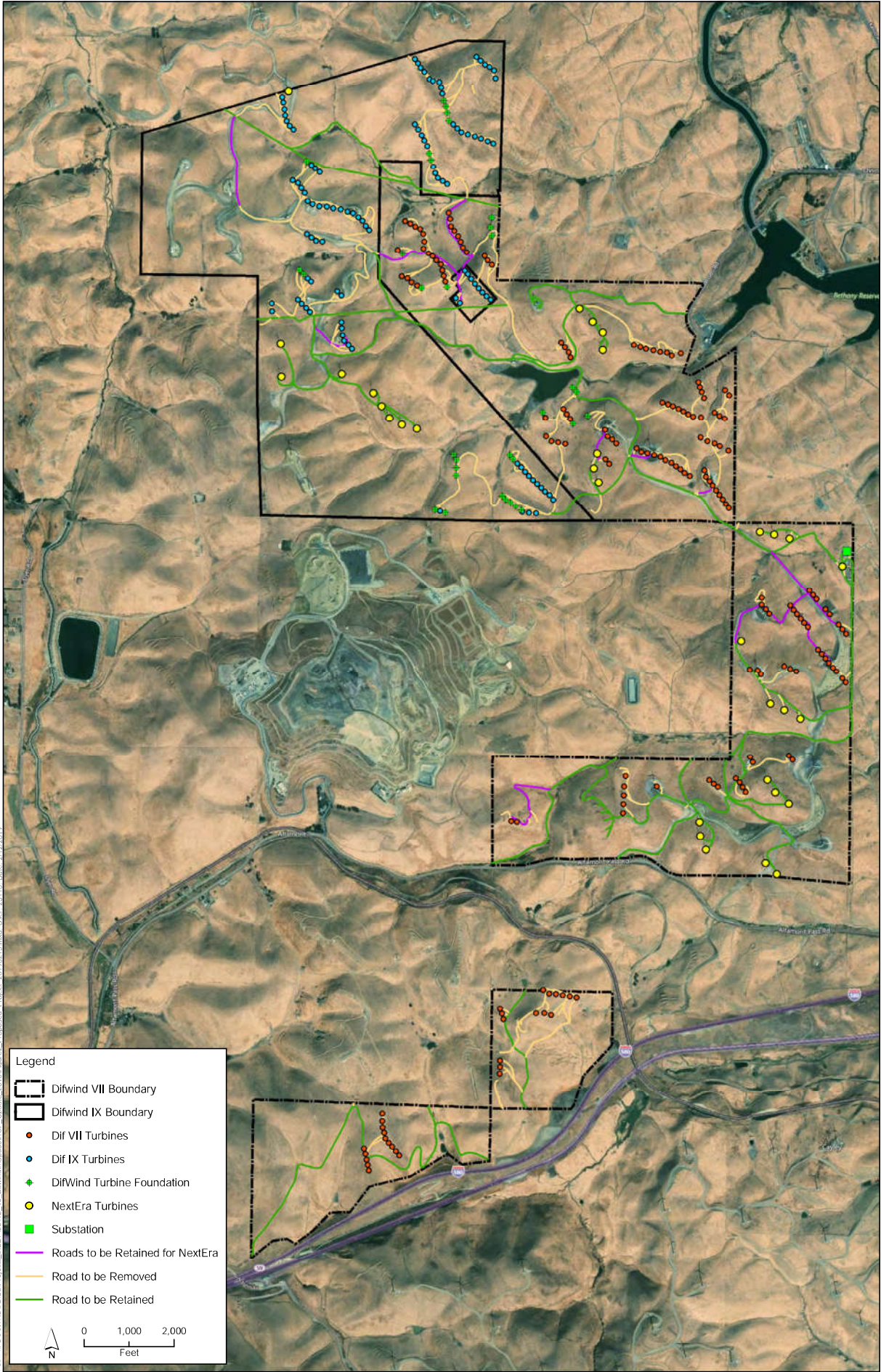


Figure 2  
Proposed Project

**Attachment 1****CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)  
CALIFORNIA ENDANGERED SPECIES ACT  
INCIDENTAL TAKE PERMIT NO. 2081-2019-014-03****PERMITTEE: DifWind Farms Limited VII and DifWind Farms Limited IX****PROJECT: DifWind VII & IX Reclamation Project****PURPOSE OF THE MMRP**

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

**OBLIGATIONS OF PERMITTEE**

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

**VERIFICATION OF COMPLIANCE, EFFECTIVENESS**

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

**TABLE OF MITIGATION MEASURES**

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



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<b>BEFORE DISTURBING SOIL OR VEGETATION</b>					
1	Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of biological monitors (collectively, Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 5.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 5.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
4	Construction Monitoring Binder. The Designated Biologist shall maintain a construction-monitoring notebook and binder on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring binder is available for review at the Project site upon request by CDFW.	ITP Condition # 5.5	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5	Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	Notification of Non-compliance. The Designated Biologist 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 and Designated Biologist shall report any non-compliance with this ITP to CDFW within 24 hours.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
7	<p>Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW email at Marcia.Grefsrud@wildlife.ca.gov and (707) 644-2812 (direct line of CDFW Regional Representative). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.</p> <p>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</p> <p>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</p>	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
8	Vehicle Speed Limit. Permittee, Designated Biologist(s) and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 15 miles per hour when traveling through the Project Area.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
9	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 picked up and removed daily.	ITP Condition #5.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
10	Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.	ITP Condition # 5.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
11	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	ITP Condition # 5.8	Before commencing ground- or vegetation-	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	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.		disturbing activities/ Entire Project		
12	Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 5.9	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	
13	Delineation of Property Boundaries. Before starting Covered Activities along each part of the route 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.	ITP Condition # 5.10	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	
14	Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 5.11	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	
15	Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 5.12	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	
16	<p>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 5.18). 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.</p> <p>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 (<a href="http://www.cal-ipc.org/paf/">http://www.cal-ipc.org/paf/</a>).</p>	ITP Condition # 5.16	Before commencing ground- or vegetation- disturbing activities/ Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
17	Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: <a href="http://www.cal-ipc.org/ip/prevention/index.php">http://www.cal-ipc.org/ip/prevention/index.php</a> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <a href="http://www.protectyourwaters.net/">http://www.protectyourwaters.net/</a> .	ITP Condition # 5.17	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
18	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 5.16). Permittee shall submit the Invasive Plant Plan to CDFW for approval within 30 days prior to the start of restoration activities. The Designated Biologist 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.	ITP Condition # 5.18	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
19	Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. The construction schedule shall identify the approximate beginning and completion date of each phase of the Project (such as decommissioning, restoration, etc.) and for each Project activity within those phases. 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.	ITP Condition # 5.19	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
20	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 fire or other natural disaster or 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.	ITP Condition # 5.20	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
21	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.	ITP Condition # 5.21	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
22	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.	ITP Condition # 5.23	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	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.	ITP Condition # 5.24	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
24	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.	ITP Condition # 5.25	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
25	<p>Photo Monitoring. No less than 10 photo monitoring stations shall be established to provide representative views of Project decommissioning, construction, restoration and reclamation activities. Photo monitoring station results shall contribute to the assessment of temporary impacts and restoration work by CDFW; therefore, Permittee should ensure that photo monitoring stations numbers and locations are sufficient to document temporary impacts and restoration success. Photo monitoring shall be done as follows:</p> <p>Stations should be located in areas that allow for unobstructed views and a field of vision of approximately 2,000 feet.</p> <p>At least one photograph shall be taken at all stations prior to ground-breaking activities, and each month thereafter until construction and initial restoration is complete. Photo documentation of restoration success shall occur every three months following initial restoration until restoration success criteria are reached.</p> <p>Photo monitoring station locations shall be provided to CDFW in a geographic format with the coordinate system identified.</p> <p>If CDFW or the Designated Biologist(s) determines that additional monitoring stations are necessary, the locations shall be added to the inventory of photo monitoring stations.</p> <p>During each photo monitoring cycle, all stations shall be visited within two days.</p>	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
26	Pre-Construction Survey Covered Species Surveys. 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 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 Covered Species during initial site grading. Ground disturbing activities shall be done in a manner that allows Designated Biologists to safely survey the area for Covered Species. A Designated Biologist shall survey the open areas adjacent to ongoing ground disturbing 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 Covered Species. The Designated Biologist shall conduct pre-construction surveys in conjunction with exclusion fencing installation (see Condition 7.12). If the Designated Biologist(s) or anyone else	ITP Condition # 7.11	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	discovers the Covered Species, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition of Approval 7.21).				
27	<p>Exclusion Fencing Near Aquatic Features. To prevent Covered Species from entering the construction or staging area, exclusion fencing or drift-fence with associated pitfall traps shall be constructed in strategic locations and in and around all work areas within 500 feet of all aquatic features. The barrier shall be designed to allow the Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. Refuge opportunities shall be placed along the fence where appropriate. Permittee shall coordinate with CDFW and USFWS on a fencing plan and shall submit the design to CDFW for approval no less than 30 days prior to the proposed start of Covered Activities. Exclusion fencing shall be installed prior to the start of Covered Activities and shall be placed within 10 feet of the edge of work areas or other appropriate distance in consultation with, and approved by, CDFW and USFWS. Permittee shall maintain the barrier throughout all construction activities. The Designated Biologist shall inspect the area prior to installation. The interior and exterior of the exclusion fencing shall be inspected by the Designated Biologist at least once daily before 0900 each day to ensure that no Covered Species are trapped against the fencing, where they could desiccate or be predated upon. If the fence barrier is left in place from November 1 to June 15, the Designated Biologist shall also inspect the fence daily before 0900 each day. Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects.</p> <p>The barrier shall remain in place until the Permittee completes the Covered Activities in that area and construction equipment has been removed from the site. The Designated Biologist shall relocate any Covered Species found along the fence. The Permittee shall avoid damage to small mammal burrows to the maximum extent possible during installation of the exclusion fencing.</p> <p>Permittee shall also ensure that silt fencing and/or other erosion control methods used to prevent sediment or other debris from passing into Covered Species' aquatic habitat that is within 500 feet of Project construction activities does not create a barrier to Covered Species movement.</p>	ITP Condition # 7.12	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
28	Delineation of Burrow Complexes. The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Condition 7.11) 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.	ITP Condition # 7.13	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
29	Pre-Construction Burrow Identification. The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of ground disturbing activities, electrical collection lines, or turbine pads 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.	ITP Condition # 7.14	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
30	Relocation of Covered Species. Permittee shall develop a Relocation Plan for Covered Species and submit it to CDFW for approval at least 30 days prior to ground-disturbing activities occurring within 1.3 miles of known Covered Species breeding pools or in suitable upland habitat. Permittee shall quantify the amount, relative location, and quality of suitable habitat (e.g., breeding, upland, and dispersal habitat) including invasive and non-native species present, available upland burrows, and potential barriers for movement. The Designated	ITP Condition # 7.20	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>Biologist shall relocate any Covered Species individuals within the Project Area impacted by Covered Activities to an active rodent burrow system or appropriate breeding pond located no more than 250 feet outside of the work area and described in the Relocation Plan, unless otherwise approved in advance by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 7.6). 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 Covered Species being discovered and confined; the location where the Covered Species was relocated; and photographs of the incident. All locations shall be geo-referenced and detailed in text.</p>				
31	<p>Permittee shall either purchase a total of 17.3 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) OR shall provide for both the permanent protection and management of a total of 17.3 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below. Permittee shall provide compensatory habitat consistent with the conservation priorities described in the East Alameda County Conservation Strategy (Chapter 3, dated October 2010) for the Covered Species as confirmed by CDFW.</p> <p>Compensatory habitat shall include both upland and Covered Species aquatic breeding habitat through preservation, restoration, enhancement, and/or creation of pond habitat that is the same or better quality as habitat that will be impacted. 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.</p> <p>Permittee shall also restore on-site 17.3 acres of temporarily-impacted Covered Species habitat pursuant to Condition of Approval 8.6 below and shall restore 28.9 acres of existing access roads. If any temporary impacts do not meet the criteria identified in ITP Conditions of Approval 5.13 and 5.14, then CDFW shall require compensatory mitigation to offset the additional Project temporal impacts. If Permittee does not complete seeding of temporary impact areas by October 31 of the year of the impact, but restores impact areas within 2 years of the impact consistent with Conditions of Approval 5.13 and 5.14, then CDFW shall consider those disturbed areas as semi-permanent, and require compensatory mitigation at a 2:1 ratio (acres of mitigation: acres of impact). If Permittee does not restore areas considered temporarily-disturbed within 2 years, then CDFW shall consider those areas as permanent impacts, and require compensatory mitigation at a 3:1 ratio (acres of mitigation: acres of impact).</p> <p>No take beyond the temporary loss of 17.3 acres of habitat for the Covered Species and restoration of 28.9 acres of access roads to habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts. This mitigation requirement will be identified by CDFW in writing and shall be subject to an amendment as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable regulations and law.</p>	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
32	Covered Species Credits. Permittee shall purchase 17.3 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 9 below.  OR:	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
33	Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:  Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);	ITP Condition # 8.3 – 8.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
34	HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species. HM lands shall meet the minimum habitat requirements for the Covered Species including, but not limited to one or more aquatic features on-site which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) or adjacent to aquatic features which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) and already conserved and managed to the satisfaction of CDFW for the Covered Species; no less than 100 acres of suitable upland or adjacent to suitable upland already conserved and managed for the Covered Species;	ITP Condition # 8.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
35	HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;	ITP Condition # 8.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
36	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.	ITP Condition # 8.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
37	Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <a href="https://www.wildlife.ca.gov/Conservation/Planning/Banking">https://www.wildlife.ca.gov/Conservation/Planning/Banking</a> ); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;	ITP Condition # 8.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
38	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 (including pond monitoring), and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition # 8.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
39	Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 8.3.5. 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	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	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.				
40	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);	ITP Condition # 8.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
41	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.	ITP Condition # 8.4.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
42	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.  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:	ITP Condition # 8.4.2.1-8.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
43	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.  Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.  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.	ITP Condition # 8.4.2.2.1 - 8.4.2.2.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
44	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.	ITP Condition # 8.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
45	<p>Performance Security. The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>Security Amount. The Security shall be in the amount of \$931,550.00. This amount is based on the cost estimates identified in Condition of Approval 8.1 above.</p> <p>Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. The Permittee shall obtain CDFW written approval of any security before its execution.</p> <p>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.</p> <p>Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.</p> <p>Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.</p>	ITP Condition # 9.0-9.6	Before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.	Permittee	
<b>DURING CONSTRUCTION</b>					
46	<p>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. The Designated Biologist shall contact the CDFW representative immediately regarding non-compliance issues. The Designated Biologist shall have the authority to consult with the CDFW representative directly.</p> <p>Permittee shall accommodate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP due to a conflict with Project construction, then the Designated Biologist shall notify the CDFW representative immediately.</p>	ITP Condition # 5.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	Compliance Monitoring. The Designated Biologist(s) shall be on-site full-time daily when Covered Activities occur. The Designated Biologist(s) shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and 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.	ITP Condition # 6.3	Entire Project	Permittee	
48	<p>Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.3 and 6.4 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.</p> <p>Monthly Compliance Reports shall detail approximate Project impacts in acres, separated into permanent and temporary impacts. Temporary impacts shall be categorized as defined in Condition of Approval 5.13. The temporary impacts category shall: (1) identify and describe the temporary impacts to date; (2) describe the location, acres, and type of restoration actions that have occurred; and (3) include all monitoring information required by the Restoration Plan described in Condition of Approval 5.14.</p> <p>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 by the 5th working day of the following month. 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.</p>	ITP Condition # 6.5	Entire Project	Permittee	
49	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 6.5; (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, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 6.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
50	CNDDDB Observations. The Designated Biologist shall notify the CDFW Representative daily when a covered Species is seen or taken. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. The Designated Biologist shall provide the GPS coordinates and photos of the observation to CDFW email at Marcia.Grefsrud@wildlife.ca.gov within 24 hours of the observation.	ITP Condition # 6.7	Entire Project	Permittee	
51	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 Covered Species is found, it may be relocated as described in Condition of Approval 7.21.	ITP Condition # 7.2	Entire Project	Permittee	
52	Inspection of Reclaimed Transformer Pads Prior to Removal. To-be-reclaimed transformer pad areas shall be inspected by the Designated Biologist no more than two weeks prior to removal of the pad to determine the presence and extent of any burrows. Survey results, including photographs of burrows, shall be provided to CDFW at least one week prior to initiation of reclamation of the pads. If burrows are found around any of these transformer pads located within 2,230 feet of a potential breeding pond Permittee shall carefully lift the pad, if feasible, and excavate the burrow and relocate any Covered Species individuals found prior to importation of fill and re-contouring the area.	ITP Condition # 7.3	Entire Project	Permittee	
53	Excavation of Refuge Habitat. All excavation of potential refuge features, including small-mammal burrows under transformer pads shall be carried out by hand by the Designated Biologist. Tool use for excavation shall be limited to a hand trowel or garden spade. Burrows shall be excavated to the terminus of each branch or until the burrow diameter is less than 5 inches. The Designated Biologist should wear protective clothing and leather gloves during excavation as rattle snakes may occupy small mammal burrows.	ITP Condition # 7.4	Entire Project	Permittee	
54	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.	ITP Condition # 7.5	Entire Project	Permittee	
55	Covered Species Handling and Injury. If an injured Covered Species is found during the Project term, the Designated Biologist shall evaluate the individual and 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 Designated Biologist shall place the injured individual in a safe and shaded location. Any injured Covered Species shall be placed in a shaded container and kept moist and 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. 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:	ITP Condition # 7.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately (see Conditions of Approval 7.22 and 7.26);</p> <p>If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then 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 CDFW and USFWS. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed, and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.10.</p>				
56	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.	ITP Condition # 7.7	Entire Project	Permittee	
57	Seasonal Work Window Extension. Permittee shall adhere to the seasonal work windows required in Condition 7.7 unless no or low rainfall conditions persist (refer to Condition of Approval 7.9). 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 Condition of Approval 5.13) and an amendment to the ITP may be required. If work during dry conditions is extended past October 31, the following conditions shall apply:	ITP Condition # 7.8	Entire Project	Permittee	
58	<p>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.</p> <p>All work and vehicle travel shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.</p> <p>All steep-walled holes or trenches more than 6 inches deep shall be covered overnight with boards or metal plates placed flush to the ground.</p> <p>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.</p> <p>If Permittee requests ground-disturbing work to be conducted past October 31 when rainfall has exceeded amounts described in Condition of Approval 7.9 then an Amendment to the ITP shall be required.</p>	ITP Condition # 7.8.1 - 7.8.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
59	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.	ITP Condition # 7.9	Entire Project	Permittee	
60	Daily Work Window. The Covered Species active season is defined as the period of time during which Covered Species are above ground. Covered Species adults migrate to and from breeding ponds during the wet season. Covered Species 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 Covered Species migration/active season from November 1 to June 15, all Project earth-disturbing activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise with the exception of deliveries that cannot feasibly be made during the day due to size of delivery, traffic, or other constraints. Such deliveries shall include access within the Project Area via established roadways and unloading within existing graded areas. Limited exceptions to this schedule may occur if necessary, to construct WTG towers or pour concrete foundations. 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.	ITP Condition # 7.10	Entire Project	Permittee	
61	Decontamination of Clothing and Equipment. Any equipment that enters the water during construction shall be decontaminated before and after construction using USFWS guidance to prevent the spread of aquatic diseases and invasive aquatic species. 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.	ITP Condition # 7.21	Entire Project	Permittee	
62	Trenching and Mowing. Prior to trenching, Permittee shall mow vegetation along the fence line to the width necessary to accommodate the trenching equipment and a walking buffer, to facilitate locating and avoiding burrows and Covered Species that may be present within the Project Area. The Designated Biologist will perform clearance surveys (refer to Condition of Approval 7.11) within the area that the Permittee will clear immediately prior to mowing. Permittee shall not disk or till Covered Species habitat other than for road decommissioning and reclamation purposes.	ITP Condition # 7.15	Entire Project	Permittee	
63	Open Trenches. To prevent inadvertent entrapment of Covered Species 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 Covered Species is trapped in these features, the Designated Biologist shall remove and relocate the animal(s) to a safe	ITP Condition # 7.16	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	location within suitable habitat (see Condition of Approval 7.20) 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 Covered Species. If at any time a trapped Covered Species is discovered by the Designated Biologist or any work crew member, the Designated Biologist shall move the animal to a safe nearby location.				
64	Augering and Excavation. The Designated Biologist shall survey all augering and excavation soils material for Covered Species. 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.	ITP Condition # 7.17	Entire Project	Permittee	
65	Soil Stockpiles. Permittee shall place soil stockpiles where soil will not pass into potential Covered Species breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 et seq. Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.	ITP Condition # 7.18	Entire Project	Permittee	
66	Covered Species Checks. Before the start of work each morning, the Designated Biologist shall check for Covered Species individuals under all vehicles, equipment, materials, or otherwise suitable locations for salamanders to hide. Workers shall inspect under vehicles and equipment for Covered Species before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist. The Designated Biologist shall follow initial grading equipment to look for Covered Species. All ruts and holes near root structures, foundations, abutments, etc., shall be inspected for Covered Species prior to and during excavation or removal. If a Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the individual as required by Condition of Approval 7.20.	ITP Condition # 7.19	Entire Project	Permittee	
67	Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a non-native barred tiger salamander ( <i>Ambystoma tigrinum mavortium</i> ) or suspected California tiger salamander/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative. CDFW. 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 Capture and Handling measures outlined in this ITP (see Condition 7.6). Permittee shall consult CDFW to determine measures to address non-native or hybrid populations.	ITP Condition # 7.22	Entire Project	Permittee	
68	Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the impact, and no additional ground disturbing activities shall occur; (2) if the impact area is within 0.5 mile of a suitable breeding pond for the Covered Species, all work shall be completed within this area and exclusion fencing and/or other barriers, such as erosion control material shall be removed or modified by October 31 of the same calendar year to allow 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 5.14).	ITP Condition # 5.13	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
69	Vegetation Restoration. Permittee shall prepare a Grassland Restoration Plan (Restoration Plan) to restore the decommissioned roads and foundations, and the 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 review and approval no less than 15 days prior to the start of restoration activities. The Restoration Plan shall include results of soil analysis which will include ground-truthing soil conditions (e.g., type, texture, chemical composition and pH) by taking a soil sample and submitting the sample to an analytical lab. The Restoration Plan shall identify plant species damaged or removed during Project activities. The Restoration Plan shall include the following restoration standards:	ITP Condition # 5.14	Entire Project	Permittee	
70	Reference Sites. Prior to initiating ground disturbance, Permittee shall establish a representative number of transects within disturbed areas ("treatment") which will each be associated with a reference ("control") site (i.e., site within intact natural habitat that will be used as a model for restoration activities). Each treatment-control transect set shall be appropriately placed and numbered for identification purposes. The slope, aspect, and hydrological conditions shall be similar for both the site to be restored and the reference site. To document existing plant communities, Permittee shall photograph the treatment and control sites during the spring (March to June) when most flowering plants are in bloom. Permittee shall also evaluate species composition at the reference site. Permittee shall use information collected at the reference site to guide restoration activities.	ITP Condition # 5.14.1	Entire Project	Permittee	
71	Soil Compaction. Permittee shall ensure that soil compaction is between 85 and 90% of maximum dry density to facilitate small mammal burrow establishment and vegetation development and growth. Reclamation and decompaction requirements to ensure compacted areas are suitable for revegetation will be completed as required in the Grassland Restoration Plan.	ITP Condition # 5.14.2	Entire Project	Permittee	
72	Performance Standards. To be considered a successful restoration site, Permittee shall meet the following performance standards: <ul style="list-style-type: none"> <li>Gravel shall be removed from restored areas to the extent necessary to meet performance standards;</li> <li>Roads shall be excavated below the compacted gravel surface;</li> <li>Permittee may import and place up to three (3) feet of soil in compacted areas, such as former roads and turbine pads, to increase the potential for vegetation establishment. Fill shall not be placed for purely aesthetic purposes, as fill has the potential to result in unnecessary and avoidable take of Covered Species. The upper one (1) foot of fill shall consist of topsoil;</li> <li>To the maximum extent feasible, topsoil shall be salvaged from within on-site work areas prior to construction. Imported fill soils shall be limited to weed-free topsoil similar in texture, chemical composition and pH to soils found at the reference site. At least two soil samples from each off-site fill source shall be submitted to a soil sampling lab for analysis. If Permittee chooses to import fill from an off-site location, CDFW and the property owner(s) shall be notified of the source of the fill at least 30 days in advance and shall be given the opportunity to inspect the fill and its source. If the fill source is deemed to be inappropriate (e.g., the type of soil is inappropriate or the soil would be sourced from a site with a major weed infestation), CDFW may require an alternative source of fill;</li> </ul>	ITP Condition # 5.14.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<ul style="list-style-type: none"> <li>Drivers might attempt to use adjacent shoulders for parking or to avoid ruts that form in roadways. Therefore, to protect restored habitat adjacent to permanent roads, permanent roads shall be kept in good repair, and barriers or fill shall be placed between the edge of the road and restored shoulders at the same grade to restrict vehicular access;</li> <li>Minor re-contouring may be conducted; however, Permittee shall limit grading, compaction, fill, and all other earthmoving activities to the Project Area. Soils shall be protected from wind erosion using a biodegradable erosion control blanket or appropriate mulch cover (i.e. hydroseed or mulch) until vegetation is established. Seed shall be applied in the early fall, between October 15 and October 31. If feasible, seed shall be applied immediately prior to the first rain event;</li> <li>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;</li> <li>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.</li> <li>Permittee shall complete seeding as soon as possible, but no later than October 31 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.</li> <li>No more than 5 percent (%) of the vegetation in each restoration site shall consist of species designated as high or moderate invasive plants in the California Invasive Plant Council's (Cal-IPC) California Invasive Plant Inventory Database (<a href="http://www.cal-ipc.org/paf/">http://www.cal-ipc.org/paf/</a>). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner.</li> </ul>				
73	Monitoring and Maintenance. Permittee is responsible for monitoring and maintaining the restored areas for a period of five (5) years or until the Restoration Plan success criteria have been met, whichever is longer. For 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 5.14.2, Permittee may submit the following report at the end of Year 1 and annually thereafter.	ITP Condition # 5.14.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	If the survival and/or cover requirements are not meeting the performance standards outlined in Condition of Approval 5.14.2, 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 monthly restoration reports (see Condition 6.5) to CDFW until the standards have been met. Replacement plantings shall be monitored with the same survival and growth requirements for five (5) years after planting.				
74	CDFW Review of Monthly Report. If CDFW documents in writing, that the take authorization for temporary impacts has been exceeded, Permittee shall cease all new construction activities, if directed by CDFW in writing, until appropriate take authorization has been provided. If CDFW determines in writing that take authorization for temporary impacts is likely to be exceeded in the coming month, Permittee shall revise the Project construction schedule (see Condition 5.19) in order to ensure temporary impacts meet the temporary impact criteria according to Condition 5.13. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.	ITP Condition # 5.15	Entire Project	Permittee	
75	Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 5.22	Entire Project	Permittee	
76	Wildfire Prevention. If the Project site is within a high or very high Fire Hazard Severity Zone (refer to <a href="http://frap.fire.ca.gov/projects/hazard/fhz.html">http://frap.fire.ca.gov/projects/hazard/fhz.html</a> ) or the risk of fire danger is high based on 7-day predictions from National Oceanic and Atmospheric Administration forecasts, Permittee shall mow access pathways, staging areas and work areas before allowing heavy equipment and vehicles to access the site. Non-living vegetative debris shall be cleared from around the immediate work footprint, and basic fire suppression supplies shall be kept on-site at all times. Disking and/or tilling are not permitted for fire prevention without prior written permission from CDFW.	ITP Condition # 5.26	Entire Project	Permittee	
77	CDFW may issue Permittee a written stop-work order to suspend any activity covered by this ITP for an initial period of up to 25 days to prevent or remedy a violation of ITP conditions (including but not limited to failure to comply with reporting, monitoring, or habitat acquisition obligations) or to prevent the illegal take of an endangered, threatened, or candidate species. Permittee shall comply with the stop-work order immediately upon receipt thereof. CDFW may extend a stop-work order under this provision for a period not to exceed 25 additional days, upon written notice to the Permittee. CDFW shall commence the formal suspension process pursuant to California Code of Regulations, Title 14, section 783.7 within five working days of issuing a stop-work order.	ITP	Entire Project	Department of Fish and Wildlife	
<b>POST-CONSTRUCTION</b>					
78	Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Condition # 8.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
79	Habitat Restoration. Permittee shall restore on-site the 17.3 acres of Covered Species habitat that will be temporarily disturbed during construction and to pre-Project or better conditions and shall restore 28.9 acres of existing access roads to Covered Species habitat. Within 6 months of issuance of this ITP, the Permittee shall prepare a Restoration Plan pursuant to ITP Condition 5.14 to facilitate revegetation of the 17.3 acres of temporary construction disturbance on-site and the restoration of 28.9 acres of existing road, and shall ensure that the Restoration Plan is successfully implemented by the contractor. The Restoration Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods.	ITP Condition # 8.6	Entire Project	Permittee	
80	Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 5.27	Post-construction	Permittee	
81	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.	ITP Condition # 6.8	Post-construction and after completion of mitigation	Permittee	
82	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: <ul style="list-style-type: none"> <li>• Written documentation of the acquisition of the HM lands;</li> <li>• Copies of all executed and recorded conservation easements;</li> <li>• Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and</li> <li>• Timely submission of all required reports.</li> </ul>	ITP Condition # 9.7		Permittee	

## Attachment 2

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

### Restraint and Handling of Live Amphibians

#### STANDARD OPERATING PROCEDURE

ARMI SOP No. 100

Revised, 16 February 2001

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

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

#### V. METHODS OF PHYSICAL RESTRAINT:

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

#### VI. MISHAPS.

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

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

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

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

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

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

#### VII. CITED LITERATURE:

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



## ATTACHMENT 3A

## CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

## HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS

The following checklist is provided to inform you of what documents are necessary to expedite the California Department of Fish and Wildlife (CDFW) processing of your Habitat Management Land acquisition proposal. Any land acquisition processing requests which are incomplete when received, will be returned. The Region contact will review and approve the document package and forward it to the Habitat Conservation Planning Branch Senior Land Agent with a request to process the land acquisition for formal acceptance.

To: \_\_\_\_\_  
Regional Manager, Region Name

From: \_\_\_\_\_  
Project Applicant

Phone: \_\_\_\_\_

Tracking #: \_\_\_\_\_  
CDFW assigned permit or agreement #

Project Name: \_\_\_\_\_

Enclosed is the complete package for the ☐ Conservation Easement OR ☐ Grant Deed

Documents in this package include:

☐ Fully executed, approved as to form Conservation Easement Deed or Grant Deed.

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

☐ Proposed Lands for Acquisition Form (PLFAF)

☐ Phase I Environmental Site Assessment Report Date on report: \_\_\_\_\_  
(An existing report may be used, but it must be less than two years old.)

☐ Preliminary Title Report(s) for subject property is enclosed and has been reviewed for encumbrances and other easements. The title report must be less than six months old when final processing is conducted.

Included are additional documents:

☐ document(s) to support title exceptions

☐ document(s) to explain title encumbrances

☐ a plot or map of easements/encumbrances on the property

☐ Policy of Title Insurance (an existing title policy is not acceptable)

☐ County Assessor Parcel Map(s) for subject property

☐ Site Location Map (Site location with property boundaries outline on a USGS 1:24,000 scale topo)

☐ Final Permit or Agreement (or other appropriate instrument)

Type of agreement: ☐ Bank Agreement ☐ Mitigation Agreement

☐ Permit \_\_\_\_\_ Other: \_\_\_\_\_  
(write in type of permit)

☐ Final Management Plan (if required prior to finalizing permit or agreement or if this package is

for a Grant Deed)

☐ Biological Resources Report

☐ Draft Summary of Transactions ☐ hard copy ☐ electronic copy (both are required)

## ATTACHMENT 3B

PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

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

TO: Regional Representative

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

Facsimile:

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

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

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

Section
Township  
Range  
Number of Acres

\_\_\_\_\_

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

Location of Parcel:

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

APPROVED \_\_\_\_

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

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

REJECTED \_\_\_\_

\_\_\_\_\_

Region

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

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

**[Financial institution letterhead]**

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

---

Issue Date: **[date]**

Beneficiary:

California Department of Fish and Wildlife  
Habitat Conservation Planning Branch  
Post Office Box 944209  
Sacramento, CA 94244-2090  
Attn: HCPB Contract Coordinator

Amount: U.S. \$**[dollar number]** **[(dollar amount)]**

Expiry: **[Date]** at our counters

Dear Sirs:

1. At the request and on the instruction of our customer, **[name of applicant]** ("Applicant"), we, **[name of financial institution]** ("Issuer"), hereby establish in favor of the beneficiary, the California Department of Fish and Wildlife ("CDFW"), this irrevocable standby letter of credit ("Credit") in the principal sum of U.S. \$**[dollar number]** **[(dollar amount)]** ("Principal Sum").
2. We are informed this Credit is and has been established for the benefit of CDFW pursuant to the terms of the incidental take permit for the **[name of project]** issued by CDFW to the Applicant on **[date]** (No. **[number]**) ("Permit").
3. We are further informed that pursuant to the Permit, the Applicant has agreed to complete certain mitigation requirements, as set forth in conditions **[numbers]** in the Permit ("Mitigation Requirements").
4. We are finally informed that this Credit is intended by CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. CDFW shall be entitled to draw upon this Credit only by presentation of a duly executed Certificate for Drawing ("Certificate") in the same form as Attachment A, which is attached hereto, at our office located at **[name and address of financial institution]**.

6. The Certificate shall be completed and signed by an Authorized Representative of CDFW as defined in paragraph 12 below. Presentation by CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.
7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation/Reduction, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of CDFW, as defined in paragraph 12 below.
12. An Authorized Representative shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Chief of CDFW's Habitat Conservation Planning Branch.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at [***name and address of financial institution***], specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, Post Office Box 944209, Sacramento, CA 94244-2090, Attn: HCPB Contract Coordinator; and (ii) for the Applicant: [***name and address of applicant***].

15. This Credit may not be transferred.

16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the Uniform Commercial Code, Article 5 of the State of California.

17. This Credit shall, if not canceled, expire on [***expiration date***], or any extended expiration date.

18. We hereby agree with CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.

19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

**[*Name of financial institution*]**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

ATTACHMENT A

CERTIFICATE FOR DRAWING

[**CDFW Letterhead**]

[**Date**]

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

Re: Irrevocable Standby Letter of Credit No. [**number issued by financial institution**]

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

1. [**Insert one of the following statements:** "In the opinion of CDFW, the Applicant has failed to complete the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "As set forth in paragraph 13, the Issuer has informed CDFW that the Credit will not be extended and the Applicant has not provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. The undersigned is authorized under the terms of the Credit to present this Certificate as the sole means of demanding payment on the Credit.
3. CDFW is therefore making a drawing under the Credit in amount of U.S. \$\_\_\_\_\_.
4. The amount demanded does not exceed the Principal Sum of the Credit.

Therefore, CDFW has executed and delivered this certificate as of this \_\_\_\_ day of [**month**], [**year**].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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[**Insert one of the following:** "Director" **or** "General Counsel" **or** "Regional Manager, [**Name of Regional Office**]" **or** "Chief, Habitat Conservation Planning Branch"]

ATTACHMENT B

CERTIFICATE FOR CANCELLATION/REDUCTION

[**CDFW Letterhead**]

[**Date**]

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

Re: Irrevocable Standby Letter of Credit No. [**number issued by financial institution**]

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

1. [**Insert one of the following statements:** "The Applicant has presented documentary evidence of full compliance with the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "The Applicant has presented documentary evidence of compliance with the following Mitigation Requirement[(s)] referenced in paragraph 3 of the Credit: [**insert brief description of requirement(s) or requirement number(s) completed**]." **or** "The Applicant has provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. [**Insert one of the following statements:** "CDFW therefore requests the cancellation of the Credit." **or** "CDFW therefore requests a reduction in the Principal Sum in the amount of \$\_\_\_\_\_, thereby making the new Principal Sum \$\_\_\_\_\_."]

Therefore, CDFW has executed and delivered this certificate as of this \_\_\_\_ day of [**month**], [**year**].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

\_\_\_\_\_  
[**Insert one of the following:** "Director" **or** "General Counsel" **or** "Regional Manager, [**Name of Regional Office**]" **or** "Chief, Habitat Conservation Planning Branch"]

California Department of Fish and Wildlife  
**Mitigation Payment Transmittal Form**

**Project Applicant Instructions:** Please fill out and attach this form to payment. For conservation banks, also attach the Bill(s) of Sale for credits sold. One form may be used for multiple transactions, **BUT YOU MUST USE A SEPARATE FORM FOR EACH CHECK YOU TRANSMIT.** Make sure to include Project Name, Project Tracking Number, and FASB Mitigation Tracking Number (if available) on the attached payment type.

(1) **DATE:** \_\_\_\_\_

**TO:** \_\_\_\_\_

[CDFW Regional Manager]

\_\_\_\_\_  
 [CDFW Regional Office Address]

(2) **FROM:** \_\_\_\_\_

Name

\_\_\_\_\_  
 Mailing Address

\_\_\_\_\_  
 City, State, Zip

\_\_\_\_\_  
 Telephone Number/FAX Number

(3) **RE:** \_\_\_\_\_

[Project Name as appears on permit/agreement]

(4) **AGREEMENT/ACCOUNT INFORMATION:**

(Check the applicable type)

☐ 2081 Permit      ☐ Conservation Bank      ☐ 1802 Agreement

☐ 2835 NCCP      ☐ Other \_\_\_\_\_

\_\_\_\_\_  
 [Project Tracking Number]

\_\_\_\_\_  
 [FASB Mitigation Tracking Number (if available)]

Index \_\_\_\_\_ PCA \_\_\_\_\_

(5) **PAYMENT TYPE (One check per form only):** The following funds are being remitted in connection with the above referenced project:

Check information:

Total \$ \_\_\_\_\_

Check No. \_\_\_\_\_

Account No. \_\_\_\_\_

Bank Routing No. \_\_\_\_\_

a. Endowment: for Long-Term Management      Subtotal \$ \_\_\_\_\_

b. Habitat Enhancement      Subtotal \$ \_\_\_\_\_

c. Security:

1. Cash Refundable Security Deposit      Subtotal \$ \_\_\_\_\_

2. Letter of Credit      Subtotal \$ \_\_\_\_\_

1. Financial Institution: \_\_\_\_\_

2. Letter of Credit Number: \_\_\_\_\_

3. Date of Expiration: \_\_\_\_\_