



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
(559) 243-4005  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

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



February 18, 2022

Gerald Snow, Environmental Assessment Branch Manager  
California Department of Water Resources  
1416 Ninth Street  
Sacramento, California 95814

**Subject: Incidental Take Permit for B.F. Sisk Safety of Dams Modification  
(2081-2020-064-04)**

Dear Mr. Snow:

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, sign the acknowledgement, and return the original **no later than 30 days from CDFW signature**, and prior to initiation of ground-disturbing activities. 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, California 94244-2090

Alternatively, 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. Digital signatures facilitated by CDFW will be automatically returned.

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 Craig Bailey, Senior Environmental Scientist (Supervisory), at [craig.bailey@wildlife.ca.gov](mailto:craig.bailey@wildlife.ca.gov).

Sincerely,  
DocuSigned by:

*Annie Ferranti*

041A77B10D78486...

for Julie A. Vance, Regional Manager  
Central Region  
California Department of Fish and Wildlife

Enclosure

*Conserving California's Wildlife Since 1870*



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

California Endangered Species Act  
Incidental Take Permit No. 2081-2020-064-04

**B.F. SISK SAFETY OF DAMS MODIFICATION PROJECT**

**I. 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> However, CDFW may authorize the take of any such species by permit pursuant to the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c). (See Cal. Code Regs., tit. 14, § 783.4).

<b>Permittee:</b>	<b>California Department of Water Resources</b>
<b>Principal Officer:</b>	<b>Gerald Snow, Environmental Assessment Branch Manager</b>
<b>Contact Person:</b>	<b>Sara Paiva-Lowry, (279) 666-9444</b>
<b>Mailing Address:</b>	<b>1416 Ninth Street Sacramento, California 95814</b>

**II. Effective Date and Expiration Date of this ITP:**

This ITP shall become effective when signed by all parties and received by CDFW as described in the Notices section of this ITP. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **January 1, 2034**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 7.9 of this ITP.

<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.

### III. Project Location:

The B.F. Sisk Safety of Dams Modification (Project) is located approximately 9 miles west of the City of Los Banos along State Route (SR) 152 within the County of Merced (Figure 1). The Project is located at approximately 37°03'38" North, 121°04'33" West. The Project site is generally bounded by the San Luis Reservoir to the west and the O'Neil Forebay to the north and northeast, and Highway 33 at the farthest extent of the Project to the east. SR 152 bisects the Project.

### IV. Project Description:

The Project involves making improvements to the downstream side of the existing B.F. Sisk Dam embankment to enhance its stability and increase the dam crest height to reduce the potential for water to overtop the dam if seismic-induced slumping were to occur. The Project encompasses an approximately 1,800-acre area (Figure 2) that includes the dam, staging areas, borrow areas, haul routes, and access roads. Table 1 lists the acreage associated with specific Project features. Project components include: 1) stability berms and shear keys; 2) dam crest raise and crack filter installation; and 3) cleanup and site restoration. Completion of these components will include spillway modification; extraction, stockpiling, and transport of materials; and creation or improvement of haul routes, access routes, and staging areas.

Table 1. Estimated Project Feature Acreage	
Existing Access Roads	145 acres
Contractor Use Areas	368 acres
Existing Dam	180 acres
New Access Roads	10 acres
Access Road Improvement/Expansion	105 acres
Stability Berms	56 acres
Relocated Channel	2 acres
Borrow Areas	930 acres

The Project is expected to begin in early 2022 and continue through 2029. The first phase of construction includes establishing contractor use areas; improving haul roads; developing borrow areas; constructing stability berms at the slopewash sections, North Valley Section (NVS) section, and South Valley Section (SVS); and downstream spillway modification. The first phase is expected to start in early 2022 and end in 2027. The second phase includes work related to the dam crest raise and two-stage chimney filter and drain construction, and is expected to begin in 2025 and end in 2029.

#### Construction of Stability Berms and Foundation Shear Keys

Construct 1 includes removal of weak alluvium and clayey slopewash material located beneath parts of the dam and constructing new downstream berms to reinforce the existing embankment. Reinforcement will occur at six locations, including two locations in the left

abutment, one location in the NVS, one location in the SVS, and two locations in the right abutment. Earthen material for berm construction will be sourced from borrow areas described under “Construction Material Borrow Areas”, below.

Berm installation in the NVS and dam abutment sections include excavation down to underlying bedrock. Excavation at the SVS section will not occur because of the bedrock depth at that location. Problematic material at all sections will be replaced with material less susceptible to liquefaction and consistent with materials in the existing dam berm. The design and materials for stability berms will be specific to the location of the berm along the existing dam embankment. In general, stability berms will be constructed of layers of compacted boulders, cobbles, gravel, sand, and topsoil. Material from the existing rock blanket on the downstream face of the dam will be stripped and stockpiled for reuse, and this material would be added to the existing berm to strengthen the dam and to ensure a more uniform crest settlement, reduce deformation, and minimize internal movement, cracking, and erosion in the event of a severe seismic event. Foundation shear keys consisting of large rockfill will be installed beneath three of the stability berm locations to provide additional stability and protection against movement during a seismic event.

Excavation for the shears keys and stability berms will extend down approximately 55 feet from the existing grade in the NVS section and up to 50 feet in the abutment sections. Excavated material will be stockpiled in the contractor use areas downstream of the dam for reuse in the dam raise and replaced with stronger material. Replacement material will be backfilled and compacted at the excavation sites, and berms will be built up with additional compacted earth fill, with rock replaced on the downstream slope. Earth materials used for this construction are discussed under Construction Material Borrow Areas, below.

Longitudinal drains, filter chimneys, and toe drains will be installed in the stability berms to provide internal drainage and protect against soil migration and erosion of the embankment. At the base of the berms, the dam’s existing drainage features will be replaced to accommodate the expanded berm area. Toe drains will direct water to terminal wells installed at the base of each berm, aligned with the location of the existing downstream drainage trenches. A 12-inch diameter pipe will be installed to carry water from the terminal well to a prefabricated weir box, which will then let out into a 12-foot-long improved channel section that will transition to the existing drainage trench, carrying water drained from the base of the dam into O’Neil Forebay.

Shear key excavations are anticipated to encounter shallow ground water, so dewatering measures will be employed to maintain a dry work area suitable for excavation with heavy equipment. This will entail drilling a series of temporary wells to pump subsurface water. Water removed from excavation during this period will be collected in temporary settling ponds or portable tanks to filter out solids before being released into the reservoir or forebay. Dewatering will be subject to permitting approval by the Central Valley Regional Water Quality Control Board.

### Dam Crest Raise and Crack Filter Installation

Construct 2 entails placing engineered fill material over the existing downstream embankment of B.F. Sisk Dam to raise the dam crest elevation by up to 12 feet to increase the reservoir freeboard and prevent overtopping in the event of seismic-induced dam deformation. The crest raise is intended as a safety measure and will not increase the reservoir's storage capacity. The embankment will be raised to an elevation of 566 feet along the central portion of the dam alignment and will transition back to the existing crest elevation at the left and right abutments.

The dam crest raise component of the Project is referred to as an overlay raise, because it is accomplished by overlaying material on top of the existing embankment to achieve the new elevation. This will be performed over the entire length of the dam, including sections receiving stability berms and sections not receiving stability berms. The overlay raise will first excavate approximately 8 feet from the top of the dam and will expose an approximately 40- to 50-foot wide surface of the existing low-plasticity clay core material and provide a working surface for connecting the new zones of the dam overlay to the existing embankment. Raising the crest will also involve reconstructing the existing maintenance and road aligned with the dam crest, which involves removing existing road material and applying compacted base material along with asphalt once the dam crest raise is complete.

### Construction Material Borrow Areas

Project engineers estimate that a total of approximately 27,000,000 cubic yards of earth material is needed for construction of the stability of berms and dam crest raise. Most fill materials for the dam improvement will be sourced from four on-site borrow areas on property under Reclamation's control, referred to as the Basalt Hill Borrow Area, Borrow Area 6, Borrow Area 12, and Borrow Area 14. The only fill materials anticipated to be imported to the site are filler sands for the stability berms, estimated at approximately 700,000 cubic yards. Upland annual grassland and ephemeral drainages within Borrow Areas 6, 12, and 14 will be stabilized and returned to a natural condition following excavation of these areas.

#### *Basalt Hill Borrow Area*

The Basalt Hill Borrow Area, located southwest of B.F. Sisk Dam and approximately 1.5 miles from the right abutment, was used to support original construction of the Dam in the 1960s. It is anticipated to again supply rock materials for the Project, including gravel, riprap, and cobble slope protection. Much of the Basalt Hill Borrow Area has experienced significant excavation and disturbance related to past materials-excavation efforts, but it is anticipated that the Project will require some additional excavation in areas that were not previously disturbed. The Basalt Hill Borrow Area has existing access roads that will be improved to allow construction equipment to safely access the area. The site's total area is 176 acres, with approximately 30 acres proposed for new disturbance. Basalt Hill Borrow Area materials

production will include blasting and on-site contouring. Approximately 15,000,000 cubic yards of material is anticipated to be removed from the Basalt Hill Borrow Area as part of Project.

### *Borrow Area 6*

Borrow Area 6 is located east of B.F. Sisk Dam, north of SR-152, and directly south of the O'Neill Forebay. Borrow Area 6 is anticipated to supply material suitable for expanding the dam's core along with material with downstream berms. The site's total area is approximately 530 acres, with 450 acres proposed for excavation and approximately 80 acres proposed for contractor use. The total quantity of excavation in Borrow Area 6 is expected to be approximately 10,000,000 cubic yards. Reclamation is proposing a staged excavation process in Borrow Area 6 in an effort to reduce temporal impacts to the resources in the borrow area. The staged excavation process involves work in a particular portion of Borrow Area 6 for 1 year, and the disturbed area will then be restored to a natural condition as the contractor moves on to the next material removal area.

### *Borrow Areas 12 and 14*

Borrow Area 12 is a grassland-covered hill located east of B.F. Sisk Dam's SVS. Borrow Area 12 is approximately 28 acres in size, all of which is proposed for material extraction. The top of Borrow Area 12 is flat, having been used in the past as a borrow area for initial construction of B.F. Sisk Dam, with two unpaved roads providing access to the top. Borrow Area 14 is located south of Borrow Area 12. It features a series of four elongated hills dominated by grassland vegetation, and totals approximately 200 acres, with approximately 137 acres proposed for materials extraction. Excavation in Borrow Areas 12 and 14 will largely avoid the lower elevations between the hills and any drainage features that exist in these areas. The total amount of excavation from Borrow Areas 12 and 14 is expected to be up to 7,000,000 cubic yards. Similar to the approach for Borrow Area 6, excavation and removal of materials from Borrow Areas 12 and 14 will occur in a phased manner with disturbed areas being restored to a natural condition as the contractor moves into the next material removal area.

### *Borrow Areas Materials Conveyance*

Hauling materials from the Basalt Hill Borrow Area and the downstream construction site will occur on Basalt Road and two haul roads – one for inbound and one for outbound trucks – connecting the borrow area to Basalt Road.

Borrow Area 6 is separated from the construction site downstream of B.F. Sisk Dam by SR-152. An at-grade crossing of SR-152 is not preferred due to the required number of truck trips over the course of several months and potential conflicts with non-construction traffic. Instead, the Project would construct a temporary haul route under the SR-152 bridge spanning the western edge of O'Neill Forebay, which would be used for truck traffic or establishment of a conveyor system to transport materials to the dam work areas. This haul route would be constructed by placing approximately 16,000 cubic yards of clean riprap and

rockfill-sized cobbles and boulders in the water between the second bridge column and the south abutment (approximately 60 feet in width) and topped with clean gravel to construct a haul route underneath the bridge. Upon completion of the material removal from Borrow Area 6, the riprap and rockfill-sized cobbles and boulders would be removed, and the area would be returned to preconstruction contours and conditions.

Borrow Areas 12 and 14 are located closer to the dam construction site than Borrow Area 6, with existing access roads in place to reach the work sites without crossing SR-152. Haul traffic would be required to cross Basalt Road, which could be accomplished by using a flag crew or other traffic management.

### Staging Areas and Access Roads

Contractor staging and materials stockpiling will occur on Reclamation property made available for those purposes throughout much of the area downstream of B.F. Sisk Dam, roughly bounded by SR-152 on the northeast, the Reclamation property boundary on the east, and the location of two settling ponds east of the right abutment on the south, excluding the Gianelli Pumping-Generating Plant. Staging and stockpiling areas have been configured to avoid wetland habitat features and existing uses such as the California Department of Water Resources, United States Bureau of Reclamation, and California Department of Parks and Recreation office complex. The available areas around the dam will be used as staging areas for the full duration of construction and will be returned to pre-construction condition after Project completion.

The Project will develop new temporary roads and improving existing roads for hauling and construction access. New roads will be cleared, and existing roads will be improved and will be either paved or treated to prevent dust. Roads will generally be 30 feet wide for construction hauling. Road improvements may include grading, filling, widening, and other treatments required to ensure roadways remain stable during Project implementation. Certain existing maintenance access roads downstream of the dam that are within the footprint of proposed stability berms will be realigned; the Project does not entail any realignment of any public roads.

### Site Restoration and Cleanup

Following completion of construction, staging areas and any temporary access roads will be restored to pre-Project conditions. Construction use areas will be regraded and scarified so that surfaces blend with natural terrain and are in a condition that provides proper drainage, prevent erosion, and facilitate revegetation. Disturbed areas will be hydro-seeded with a regionally appropriate seed mix to promote habitat reestablishment and minimize soil erosion. Temporary construction roads will be restored to their original contours and made impassible to vehicular traffic, and hydro-seeded with a regionally appropriate seed mix.

Scrap materials and construction debris will be disposed of at local landfills, salvage yards, or hazardous waste landfills as appropriate.

Construction Schedule

Construction is expected to last approximately 8 years. Work is anticipated to be performed 24 hours per day, 7 days per week, 12 months per year, with the exception of certain holidays, where all work other than operation of dewatering systems will cease over extended weekends. The 24-hour workday is anticipated to consist of two 10-hour work shifts, with one 30 minute lunch break each shift, plus a 3-hour maintenance period. An estimated 46 works are expected on site during the dayshift and 30 works on site during the nightshift. Blasting operations at the Basalt Hill Borrow Area would be limited to the hours between 6:00 a.m. and 6:00 p.m.

Equipment

Equipment that will be used to construct the Project includes three excavators, four bulldozers, five cranes/lifts, five compactors, two graders, two scrapers, five loaders (two small, three large), nine dump trucks, five water trucks, and one truck-mounted drill rig.

V. Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> <sup>3</sup>
1. California tiger salamander ( <i>Ambystoma californiense</i> , CTS)	Threatened <sup>4</sup>
2. San Joaquin kit fox ( <i>Vulpes macrotis mutica</i> , SJKF)	Threatened <sup>5</sup>

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

VI. 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 blasting, grading, cut-and-fill, scraping, contouring, vegetation-clearing, grubbing, excavating, trenching, stockpiling, backfilling, compacting, paving, and hydro-seeding; as well as pre-disturbance excavation of small mammal burrows, salvage, and relocation efforts required by this ITP (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as construction vehicle/equipment strikes and burrow collapse associated with earthwork, vegetation removal, road construction; crushing or suffocation by heavy equipment or laydown of equipment and materials; entrapment and desiccation (CTS) within trenches, open pipelines, and uncovered excavations; entombment from deposition of stockpiled soil over occupied burrows/dens, and during vegetation removal

<sup>3</sup> Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

<sup>4</sup>See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).

<sup>5</sup>See *Id.*, subd. (b)(6)(E).



and earthwork associated with development of roadbeds, paved parking, building pads, and other infrastructure. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursuit or capture through: entrapment in holes or other excavations; capture of individuals in confined areas or within exclusion fencing, and when individuals of the Covered Species are salvaged, collected, and relocated or translocated out of harm's way as required by this ITP. The areas where authorized take of the Covered Species is expected to occur include: stability berm and shear key construction sites, dam crest raise locations, contractor use areas, material extraction/borrow areas, haul routes and access roads, and any location where Project activities include grading, grubbing, cut, fill, or other ground or vegetation disturbance (collectively, the Project Area).

The Project is expected to cause the permanent loss of 103.76 acres of habitat for the Covered Species. The Project is also expected to cause the temporary loss of 1,049.1 acres of habitat for the Covered Species. Temporary impacts are expected to vary in duration, from less than 1 year to up to 9 years. Impacts to CTS and its upland habitat are based on land use type and the distance from potential breeding locations and typical dispersal distance. Impacts to SJKF and its habitat are based on land use type and topography. Both assessments include considerations for potential movement barriers that may eliminate or reduce a species ability to access an area of suitable habitat features. Expected impacts to habitat type and the duration of impacts can be found in Table 2. Table 3 lists the distance of CTS upland habitat, including solely CTS upland habitat and overlapping CTS upland and SJKF habitats, from potential breeding locations.

Table 2. Impacts to Habitat Type and Impact Duration

<b>Habitat Type</b>	<b>&lt; 1 Year</b>	<b>1-3 Years</b>	<b>3+ Years</b>	<b>Permanent</b>	<b>Total</b>
CTS upland *	60.60	2.72	13.11	0.71	77.14
SJKF **	483.30	95.08	136.56	95.08	810.02
SJKF and CTS ***	137.19	53.56	66.89	7.97	265.61

\* Suitable habitat for use solely as CTS upland refugia

\*\* Suitable habitat solely for use as SJKF habitat

\*\*\* Suitable for use for both CTS upland refugia and SJKF

Table 3. CTS Upland Habitat Impacts Proximity to Potential Breeding Locations

	Distance from Potential Breeding Location			
Impact Duration	0 – 562 meters (m)	563 – 1,501 m	1,501 – 2,092.15 m	Total by Duration
Permanent	0	1.78	6.91	8.68
< 1 Year	5.95	126.92	64.92	197.79
1 – 3 Years	26.69	45.12	8.27	80.07
3 – 9 Years	0	17.63	38.64	56.27
Total by Distance	32.64	191.44	118.75	342.83

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 blasting, excavating, and 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.

#### **VII. 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.

#### **VIII. 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 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 B.F. Sisk Dam Safety of Dams Modification Project Final Environmental Impact Statement/Environmental Impact Report (SCH No.: 2009091004) certified by the California Department of Water Resources (DWR) on December 5, 2019, and the Supplemental Environmental Impact Report certified by DWR on October 3, 2021, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. 1600-2021-0005-R4) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Reinitiation of Formal Consultation for the B.F. Sisk Safety of Dams Modification Project, Merced County, California (08ESMF00-2019-F-1572-R001) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
6. **General Provisions:**
  - 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
  - 6.2. Designated Biologist(s) and Designated Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Designated Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Designated Monitor(s) are

knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Designated Monitor(s) 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(s) and Designated Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Designated Monitor(s) must be changed.

- 6.3. Designated Biologist Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 6.4. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. 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. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.

- 6.5. Construction Monitoring Documentation.** The Designated Biologist(s) and Designated Monitor(s) shall maintain construction-monitoring documentation on site in either hard copy or digital format 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 documentation is available for review at the Project site upon request by CDFW.
- 6.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles. Dust palliatives shall not be used on the Project Area without prior review of the chemical composition and written approval for use by CDFW.
- 6.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 6.9. Delineation of Work Area Boundaries.** A Work Area is defined as the discrete zone(s) within the Project Site where Covered Activities will actively occur. Before starting Covered Activities at each phase of development, the Permittee shall clearly delineate the boundaries of the active Work Area where the Covered Activities will occur with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that Work Area.
- 6.10. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.11. Project Access.** Project-related personnel shall access the Project Area using existing routes, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to

established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed a daytime speed limit of 35 miles per hour (mph) and a nighttime speed limit of 20 mph on all designated haul routes, and a daytime speed limit of 20 miles per hour (mph) and a nighttime speed limit of 15 mph on all other portions of the Project area to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

- 6.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.
- 6.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off site.
- 6.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.
- 6.16. Fire Prevention.** Permittee shall implement fire prevention measures during Covered Activities including, but not limited to: (1) all motorized vehicles shall be equipped with spark arrestors when working in designated State Responsibility Areas, (2) during welding operations, ensure a water-filled backpack pump, a shovel, and fire-resistant mats and/or windscreens are available onsite, (3) prohibit welding operations during "red flag" conditions as determined by the California Department of Forestry and Fire Protection, (4) all fuel trucks shall be

equipped with an appropriate fire extinguisher, and (5) parking and storage areas shall be cleared of all flammable materials.

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

- 7.1. Notification Before Commencement.** The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.2. Notification of Non-compliance.** The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.
- 7.3. CTS Mortality Reduction and Relocation Plan.** The Designated Biologist shall prepare a CTS Mortality Reduction and Relocation Plan (Mortality Reduction and Relocation Plan) and submit it to CDFW for approval prior to the beginning of Covered Activities. The Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area which represents potential upland habitat; the area within 1.3 miles of known or potential breeding habitat for CTS; an identification of survey, capture, handling, and relocation methods; identification of relocation areas; and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Mortality Reduction and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling the Covered Species unless approved in writing by CDFW and under the direct supervision of the Designated Biologist(s).
- 7.4. SJKF Den Replacement Plan.** Permittee shall submit a SJKF Den Replacement Plan to CDFW prior to the start of Covered Activities. Permittee shall replace each potential, known, and active kit fox den that cannot be avoided within the Project Area with an artificial den to compensate for the loss of important shelter used by kit foxes for protection, reproduction, and escape from predators. Den excavation within the Project Area may not proceed until the SJKF Den Replacement Plan is approved in writing by CDFW's Regional Representative. The SJKF Den Replacement Plan shall include, but not be limited to, a discussion and map of potential artificial den replacement locations; detailed description of the den excavation methods; and description of the replacement den dimensions (e.g., depth and width of den, width of den entrance, orientation of den entrance,

number and placement of entrances to natal dens). Once the SJKF Den Replacement Plan is approved by CDFW, it shall be used for the duration of this ITP. Any proposed changes to the SJKF Den Replacement Plan shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any proposed SJKF Den Replacement Plan modifications.

- 7.5. Compliance Monitoring.** The Designated Biologist shall be on site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity. The Designated Biologist shall conduct compliance inspections to:

- (1) minimize incidental take of the Covered Species;
- (2) prevent unlawful take of species;
- (3) check for compliance with all measures of this ITP;
- (4) check all exclusion zones; and
- (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.

- 7.6. Quarterly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.5 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure no later than the 10<sup>th</sup> day of the month it is due. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Central Region Office and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Office email is R4CESA@wildlife.ca.gov and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

- 7.7. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.6; (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; (7) Geographic Information Systems (GIS) data files depicting the current extent of permanent and temporary disturbance associated with the Project; (8) GIS data files depicting the location and current status of restoration sites for previous temporary disturbance areas; and (9) information about other Project impacts on the Covered Species.

- 7.8. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.9. Final Mitigation Report.** No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; (8) GIS data files depicting the total extent of permanent and temporary disturbance associated with the Project, the location and status of restoration areas for temporary disturbance, and the location of Habitat Management Lands required in Condition of Approval 9; and (9) any other pertinent information.
- 7.10. Habitat Restoration Plan.** Within three months of issuance of this ITP, Permittee shall submit a Habitat Restoration Plan to CDFW for review and approval to facilitate revegetation of the 1,049.1 acres of temporary disturbance on site. Permittee shall restore the soil and vegetation to a condition conducive for Covered Species recolonization. Permittee shall ensure restoration is successfully implemented by the contractor. At a minimum, the Habitat

Restoration Plan shall include the following information: (1) a map that identifies the location of the areas to be revegetated; (2) a description of the existing physical and biological conditions of the areas prior to commencement of any restoration activities; (3) identification of the final soil compaction rate less than that of representative adjoining Covered Species habitat to a depth of no less than three feet; (4) description of how the native topsoil from the Work Areas and/or seed will be applied over the area to establish suitable vegetation for Covered Species; (5) a California native plant palette and seed sources; (6) a planting plan, including seed application method; (7) procedures to ensure that nonnative plants are not introduced or allowed to sustain within the revegetation areas and an annual nonnative removal plan; (8) avoidance and minimization measures; (9) monitoring and maintenance measures and a timeline when these will occur; (10) proposed success criteria and contingency measures if the first application is unsuccessful to ensure upland habitat suitability for Covered Species; (11) a funding source to cover the total costs of restoration; and (12) indicate the time of year seeding will occur to ensure adequate growth without supplemental watering or describe the methods of supplemental watering delivery.

**7.11. Notification of Take or Injury.** Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

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

***California Tiger Salamander Specific Conditions of Approval***

**8.1. CTS Pre-Activity Clearance Survey and Reporting.** No more than 14 days prior to any vegetation- or ground-disturbing activities at a Work Area, the Designated Biologist shall survey that part of the Work Area which represents potential habitat for CTS. These surveys shall provide 100 percent visual coverage of the potential habitat (including burrow and crevice openings) at the Project Area as well as a 50-foot buffer zone around the Project Area. If CTS individuals are

found, the Designated Biologist(s) shall relocate them from the Project Area in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan (Condition of Approval 7.3). The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities within the Work Area.

- 8.2. Flag Burrows/Crevices.** During the Pre-Activity Clearance Surveys (Condition of Approval 8.1), the Designated Biologist shall flag all animal burrows and crevices suitable for CTS occupancy within each Work Area and a 50-foot buffer outside the Work Area. An avoidance buffer of 50 feet or greater around animal burrows/crevices shall be maintained regardless of if the burrow/crevice is in the Work Area or solely within the Work Area's 50-foot buffer zone. Flagged burrows/crevices which occur within 600 meters of known or potential breeding habitat and which cannot be avoided by at least 50 feet shall be fully excavated in accordance with Condition of Approval 8.3 below.
- 8.3. Burrow and Crevice Excavation.** Prior to any vegetation- or ground disturbing activities, those animal burrows and crevices identified during the Pre-Activity Clearance Surveys (Condition of Approval 8.1) and flagged (Condition of Approval 8.2) within 600 meters of known or potential CTS breeding habitat as identified in a CTS Mortality Reduction and Relocation Plan (Condition of Approval 7.3), and which cannot be fully avoided by at least 50 feet, shall be fully excavated. Applicable burrows/crevices may be excavated by hand or in a manner otherwise approved by CDFW in accordance with the CDFW approved CTS Mortality Reduction and Relocation Plan (Condition of Approval 7.3). Burrow/crevice excavation shall occur under the direct supervision of the Designated Biologist(s).

Those animal burrows and crevices identified outside but within 50 feet of Project Areas shall be similarly excavated if they occur within 50 feet of ground disturbance within the Work Area. This excavation requirement applies regardless of whether the burrow/crevice is located within the Work Area or within 50 feet of the Work Area, except for the following instances, in which excavation is not needed: (1) burrows/crevices outside of the Permittee's access and/or control; or (2) burrows/crevices outside the Work Area and the Work Area is solely an access route or road improvement. The Designated Biologist(s) shall relocate any live CTS discovered during burrow/crevice excavation in accordance with the CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.3 above. Excavation shall occur no more than 14 days after the completion of the Pre-Activity Clearance Surveys as described in Condition of Approval 8.1.

- 8.4. CTS Record of Observations and Handling.** All CTS captures, relocations, and observations by the Designated Biologist(s) shall include the following

documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the CTS; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 7.8. This information should also be included in the Quarterly Compliance (Condition of Approval 7.6) and Annual Status Reports (Condition of Approval 7.7).

- 8.5. Dry Season Work. Ground-disturbing activities within or immediately adjacent (within 250 feet) to potential CTS breeding habitat shall not occur until the pools are dry, unless surveys are conducted to demonstrate the absence of Covered Species eggs or larvae in these pools.
- 8.6. Fieldwork Code of Practice. To ensure that disease is not conveyed between Work Areas by the Designated Biologist(s) or Designated Monitors(s), the Fieldwork Code of Practice developed by the Declining Amphibian Populations Task Force (see Attachment 3) shall be followed at all times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.
- 8.7. Rain Forecast. The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 50 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground or vegetation disturbance has yet to occur until no further rain is forecast. Work may continue 24 hours after the rain ceases and there is no precipitation in the 72-hour forecast. Work Areas that have already been previously disturbed and surrounded by exclusion fence may continue Covered Activities during rainfall events.

### ***San Joaquin Kit Fox Specific Conditions of Approval***

- 8.8. SJKF Pre-Activity Surveys and Reporting. The Designated Biologist shall perform a Pre-Activity Survey for SJKF no more than 14 days prior to conducting Covered Activities in a Work Area. The Pre-Activity Survey shall cover the Work Area and 50 feet beyond the limits of the Work Area to identify all potential SJKF dens as well as a buffer zone of 500 feet beyond (where feasible) the limits of the Work Area to identify potential SJKF dens. If the Designated Biologist identifies any potential SJKF dens, the den(s) shall be monitored for at least four (4) consecutive nights with tracking medium and infrared camera to determine the current use of the den(s). Permittee shall provide the Pre-Activity Survey results in a written report to CDFW's Regional Representative at least seven (7) days

prior to the beginning of Covered Activities in the Project Site. The Pre-Activity Survey report shall include, but not be limited to, methodology, date and time of survey, the number of potential SJKF dens, a discussion and map of the locations of each potential, known, and natal SJKF den.

- 8.9. SJKF Den Avoidance.** Permittee shall avoid destroying SJKF dens unless they are in an area of direct ground disturbance (e.g., excavation area) or their location poses a risk of direct harm to SJKF individuals. Dens near disturbance but outside of direct impact areas shall remain intact and the Designated Biologist shall block the entrance by installing an object approved in advance in writing by CDFW to prevent SJKF from entering and utilizing the den during Covered Activities. The Designated Biologist shall remove the object immediately after Covered Activities are completed in the Work Area when the Designated Biologist has determined that potential resumed use of the den will not result in harm to SJKF. Permittee shall not destroy or modify dens that are beyond the direct footprint of ground disturbance to preempt their use and den buffer establishment or for any other purpose. If a potential SJKF den (any subterranean hole, three inches or larger, for which no evidence is present to conclude that the den is being used or has been used by a SJKF) is discovered or a SJKF is found in an "atypical" den (e.g., a pipe or culvert), Permittee shall establish a minimum 50-foot no-disturbance buffer around the den. If a known den (one that shows evidence of current use or was used in the past) is discovered, Permittee shall establish a minimum no-disturbance buffer of at least 100 feet around the den. If a natal den (den in which SJKF young are reared, typically with two or more openings) is discovered, Permittee shall establish a no-disturbance buffer of at least 200 feet around the den. Natal dens with pups shall have a no-disturbance buffer of at least 500 feet. Permittee shall notify the United States Fish and Wildlife Service (USFWS) and CDFW's Regional Representative immediately via telephone and e mail if any SJKF-occupied atypical dens, known dens, or natal dens are discovered within or immediately adjacent to the Project Area.
- 8.10. SJKF Den Replacement.** Permittee shall replace each known and natal SJKF den that cannot be avoided as per Condition of Approval 8.9, with an artificial den. Permittee shall install one artificial kit fox den for each known den and three artificial dens for each natal den to be collapsed due to unavoidable disturbance. If there are no suitable existing dens within 100 meters of the collapsed den, the Permittee shall install artificial dens within 100 meters of the collapsed den. Artificial natal dens shall be multi-chambered and have multiple entrances. If greater than 10 suitable kit fox dens are located within a 100 meter radius of the collapsed den, Permittee shall consult with CDFW about appropriate location for installation of artificial dens. Installation of artificial den(s) shall be completed before excavation of known and natal SJKF dens can occur (Condition of Approval 8.12) to compensate for the loss of important shelter used by SJKF for protection, reproduction, and escape from predators. Den replacement shall be

completed in accordance with the CDFW-approved SJKF Den Replacement Plan required in Condition of Approval 7.4.

- 8.11. SJKF Den Excavation.** The Designated Biologist or individuals under direct supervision of the Designated Biologist shall excavate potential or known dens that exhibit signs of SJKF use or characteristics suggestive of SJKF dens (including dens in natural substrate and in/under man-made structures) that cannot be avoided as per Condition of Approval 8.9 only after the Designated Biologist has determined that SJKF is not currently present after four (4) consecutive nights of monitoring with tracking medium and infrared camera. Potential SJKF dens without any signs of SJKF use or characteristics suggesting it is a SJKF den may be excavated under the direct supervision of the Designated Biologist without advance tracking or camera monitoring. Natal dens shall not be excavated until the pups and adults have vacated the den and then only after written concurrence from the USFWS and CDFW to do so. If the excavation process reveals evidence of current use by SJKF, then den excavation shall cease immediately and tracking or camera monitoring as described above shall be conducted/resumed. Excavation of the den shall only resume when, in the judgment of the Designated Biologist, the SJKF has escaped from the partially excavated den. SJKF dens shall be carefully excavated until it is clear no individuals of SJKF are inside. Dens to be destroyed shall be fully excavated, filled with dirt and compacted to ensure that SJKF cannot reenter or use the den during the period that Covered Activities would occur in the Work Area. If an individual SJKF does not vacate a den within the Work Area within a reasonable timeframe, Permittee shall consult with CDFW and the USFWS to obtain written guidance from both agencies prior to proceeding with den destruction. An established SJKF den no-disturbance buffer may be removed once the SJKF is no longer using the den.

- 8.12. Rodenticide.** The use of rodenticide(s) is prohibited within the Project Area.

***All Covered Species Conditions of Approval***

- 8.13. Exclusion Fencing.** After surveying, flagging, and excavating small mammal burrows and SJKF dens, and prior to any surface disturbance, in accordance with Conditions of Approval 8.1, 8.2, 8.3, 8.8, 8.9, and 8.11 above, Permittee shall install exclusion fencing around the perimeter of the Work Area to prevent Covered Species from migrating into the cleared Work Area. Areas to be fenced include all Work Areas except linear haul routes or access roads that are beyond 600 meters from potential CTS breeding habitat. Permittee shall install exclusion fencing only in the particular Work Area where Covered Activities are planned to occur in the immediate future and exclusion fencing shall remain in place until Covered Activities are completed. The fencing material and design shall be summarized in a Work Area-specific fencing plan that will be reviewed and

approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed under the direct supervision of the Designated Biologist and no later than 48 hours after the burrow/crevice excavation and relocation work is completed. The Permittee shall also avoid animal burrows and crevices to the maximum extent possible during the installation of the exclusion fence. When animal burrows and crevices that are within 600 meters of known or potential Covered Species breeding habitat cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be excavated as described in Condition of Approval 8.3, above, prior to commencing fence installation. Exclusion fencing shall be removed immediately upon completion of Covered Activities in the fenced Work Area.

- 8.14. Exclusion Fence Installation.** The Designated Biologist(s) shall accompany the exclusion fence construction crew to ensure that Covered Species are not killed or injured during fence installation. The exclusion fence shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the Covered Activities in the Work Area being fenced. Permittee shall check the exclusion fence at least once weekly and maintain/repair the fence when necessary. Permittee shall also avoid animal burrows and crevices and SJKF dens to the maximum extent possible during the installation of the exclusion fence. When animal burrows and crevices that are within 600 meters of known or potential CTS breeding habitat or potential SJKF dens cannot be avoided by a 50-foot no-disturbance buffer from the fence line, Permittee shall be excavated as described in Conditions of Approval 8.3 and 8.11, respectively above, prior to commencing fence installation. When known SJKF dens cannot be avoided by 100 feet, they shall be excavated as described in Condition of Approval 8.11, above. Permittee shall notify CDFW and USFWS if natal dens are observed within 500 feet of the exclusion fence and shall establish no-disturbance buffers as described in Condition of Approval 8.9
- 8.15. Soil Stockpiles.** Permittee shall ensure that soil stockpiles are placed where soil will not pass into the potential CTS breeding habitat, or into any other "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall stockpile all materials and equipment in a manner that discourages Covered Species' use. In all locations, bundled or loose materials shall not be placed directly on the ground. These materials shall be elevated to discourage use by Covered Species. Materials shall not be placed outside of exclusion fencing.
- 8.16. Open Excavations.** Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Work Area at the beginning, middle, and end of each day (including weekends and any other non-work days) for trapped Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope

shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the worker(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. Worker(s) shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist(s) may capture and relocate CTS as per the CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.3 above. If SJKF are observed and does not vacate the area of its own accord within a reasonable timeframe, or cannot vacate the area, CDFW shall be contacted and Permittee shall get written concurrence prior to proceeding with relocation and/or rescue of the SJKF.

- 8.17. Equipment Inspection.** Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move CTS out of harm's way outside of the Work Area and in compliance with the approved CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.3. If a SJKF does not vacate of its own accord within a reasonable timeframe, CDFW shall be contacted and Permittee shall get written concurrence prior to proceeding with eviction of the SJKF.
- 8.18. Pipes and other Structures Entrapment Prevention.** Permittee shall ensure that all pipes, hoses, conduit, culverts, or similar materials stockpiled or installed in the Work Area be capped or otherwise enclosed at the ends to prevent entry by Covered Species. Workers shall thoroughly inspect all construction pipe, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the Covered Species before the object is subsequently moved, buried, or capped. If during inspection, an individual of the Covered Species is discovered inside a pipe, culvert, or similar structure, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Designated Biologist may move CTS out of harm's way outside of the Work Area and in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required



in Condition of Approval 7.3. If a SJKF inside such materials does not vacate of its own accord within a reasonable timeframe, CDFW shall be contacted, and Permittee shall get written concurrence prior to proceeding with eviction of the SJKF.

- 8.19. Covered Species Observations.** During all Covered Activities, all workers shall inform the Designated Biologist(s) if a Covered Species is observed within or near the Project Area. All work in the vicinity of the observed Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Project Area of its own accord or the Designated Biologist(s) can relocate the Covered Species following the CDFW-approved CTS Mortality Reduction and Relocation Plan specified in Condition of Approval 7.3 above.
- 8.20. Covered Species Injury.** If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 7.11. Notification shall include the name of the facility where the animal was taken.
- 8.21. Herbicide Use.** Permittee shall ensure that all herbicide use (mixing, application, and clean-up) is done by a licensed applicator in accordance with all applicable state, federal, and local regulations. Permittee shall only apply herbicide sprays via ground application when wind speed measures less than 3 miles per hour. Permittee shall ensure that great care is taken to avoid herbicide outside the boundaries of the Work Area. Permittee shall ensure that any herbicide used where there is the possibility that the herbicide could come into direct contact with water is approved for use in an aquatic environment.

- 9. Habitat Management Land Acquisition:** CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from 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 protected acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall purchase 291.91 CTS upland credits, 695.17 SJKF credits, and 266.69 CTS/SJKF credits from the proposed Piedra Azul Conservation Bank, 658.20 SJKF credits from the Alkali Sink Conservation Bank, and

124.4 CTS upland credits from the Sparling Ranch Conservation Bank, for a total of 2,036.61 habitat credits, before starting Covered Activities pursuant to Condition of Approval 9.2 below. If credits are not available at the proposed Piedra Azul Conservation Bank when the ITP is issued, Permittee may purchase 291.91 CTS upland credits, 695.17 SJKF credits, and 266.69 CTS/SJKF credits from the proposed Piedra Azul Conservation Bank within 12 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below.

**9.1. Cost Estimates.** For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands as follows:

9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$6,452.11/acre for 1,253.77 acres: **\$8,089,461.95**. Land acquisition costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;

9.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 9.3.1 and 9.3.2 below: **\$600,530.00**;

9.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at **\$527,423.87**;

9.1.4. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at **\$351,013.19**;

9.1.5. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$1,416.67/acre for 1,253.77 acres: **\$1,776,177.07**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

9.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at **\$12,000.00**.

**9.2. Covered Species Credits.** Permittee shall purchase 152 acres of CTS upland habitat credits; 531 acres of combined CTS upland habitat and SJKF habitat credits; and 1,089 SJKF habitat credits from a CDFW-approved mitigation or conservation bank. Permittee shall purchase 291.91 CTS upland credits, 695.17 SJKF credits, 266.69 CTS/SJKF credits from the Piedra Azul Conservation Bank, purchase 658.20 SJKF credits from the Alkali Sink

Conservation Bank, and 124.4 CTS upland credits from the Sparling Ranch Conservation Bank prior to initiating Covered Activities, or no later than 12 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project.

- 9.3. Bill of Sale and Payment Receipt or Credit Transfer Agreement.** Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt or an executed Credit Transfer Agreement prior to Project activities or within 12 months from issuance of this ITP if Security is provided.

OR

Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of 2,036.61 acres of HM lands, the Permittee shall:

- 9.3.1. Fee Title. Transfer fee title of 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.
- 9.3.2. Conservation Easement. 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 elects not to be named as the grantee for 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 Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.

- 9.3.3. 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, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 9.3.4. HM Lands Documentation. Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 9.3.5. 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. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.
- 9.3.6. 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://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&inline>) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 9.3.7. 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, species monitoring, and vegetation and invasive species management.

Permittee shall either (1) provide Security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

- 9.4. Endowment Fund.** 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 is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 9.3.6. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

- 9.4.1. Identify an Endowment Manager.** The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.

Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).

Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) 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)(3).

9.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.

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

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

9.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund,

unanticipated expenditures, inflation, or catastrophic events.

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

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

9.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.

9.4.4. Management of the Endowment. 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.

Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.

Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.

9.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but

not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

- 10. Security:** The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:
- 10.1. Security Amount.** The Security shall be in the amount of **\$11,356,606.08** or in the amount identified in 9.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.
  - 10.2. Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
  - 10.3. Security Timeline.** The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
  - 10.4. Security Holder.** The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
  - 10.5. Security Transmittal.** Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.
  - 10.6. Security Drawing.** The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
  - 10.7. Security Release.** The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
    - Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits; and
    - Timely submission of all required reports.



And/Or

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

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 12 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.

#### **IX. 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.

#### **X. Stop-Work Order:**

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order 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, regardless of whether that species is a Covered Species under this ITP. 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 30 additional days.

If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. 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.

**XI. 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.

**XII. Notices:**

The Permittee shall sign and return this ITP to CDFW. A manual or digital signature is acceptable, provided a digital signature complies with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned. Manual (wet) signatures on duplicate original paper copies shall be returned by the Permittee via 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, California 94244-2090

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2020-064-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Julie A. Vance, Regional Manager  
California Department of Fish and Wildlife  
1234 East Shaw Avenue  
Fresno, California, 93710  
Telephone (559) 243-4005  
R4CESA@wildlife.ca.gov

and a copy to:

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

Incidental Take Permit  
No. 2081-2020-064-04  
CALIFORNIA DEPARTMENT OF WATER RESOURCES  
B.F. SISK SAFETY OF DAMS MODIFICATION PROJECT

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

Craig Bailey  
California Department of Fish and Wildlife  
1234 East Shaw Avenue  
Fresno, California, 93710  
(559) 999-7349  
Craig.Bailey@wildlife.ca.gov

### **XIII. Compliance with the California Environmental Quality Act:**

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, the California Department of Water Resources. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the B.F. Sisk Dam Safety of Dams Modification Project Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR), (SCH No.: 2009091004) dated August 2019 that the California Department of Water Resources certified for the B.F. Sisk Safety of Dams Modification Project on December 5, 2019, and the B.F. Sisk Dam Safety of Dams Modification Project Final Supplemental Environmental Impact Report (SEIR) certified on October 3, 2021. At the time the lead agency certified the EIS/EIR and SEIR 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 EIS/EIR and SEIR 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.

### **XIV. Findings Pursuant to CESA:**

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

CDFW finds based on substantial evidence in the ITP application, B.F. Sisk Dam Safety of Dams Modification Project Final Environmental Impact Statement/Environmental Impact

Incidental Take Permit  
No. 2081-2020-064-04  
CALIFORNIA DEPARTMENT OF WATER RESOURCES  
B.F. SISK SAFETY OF DAMS MODIFICATION PROJECT

Report, B.F. Sisk Dam Safety of Dams Modification Project Final Supplemental Environmental Impact Report, the results of consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 2,036.61 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.

**XV. Attachments:**

FIGURE 1	Project Location
FIGURE 2	Project Features
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Fieldwork Code of Practice
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

**ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 2/18/2022**

DocuSigned by:

*Annee Ferranti*  
041A77B10D78486...

for Julie A. Vance, Regional Manager  
Central Region

**ACKNOWLEDGMENT**

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

DocuSigned by:

*Jerry Snow*  
F32E0AE1462843A...

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

Date: 3/4/2022

Printed Name: Jerry (Gerald) Snow

Title: Chief, Env. Assessment Branch

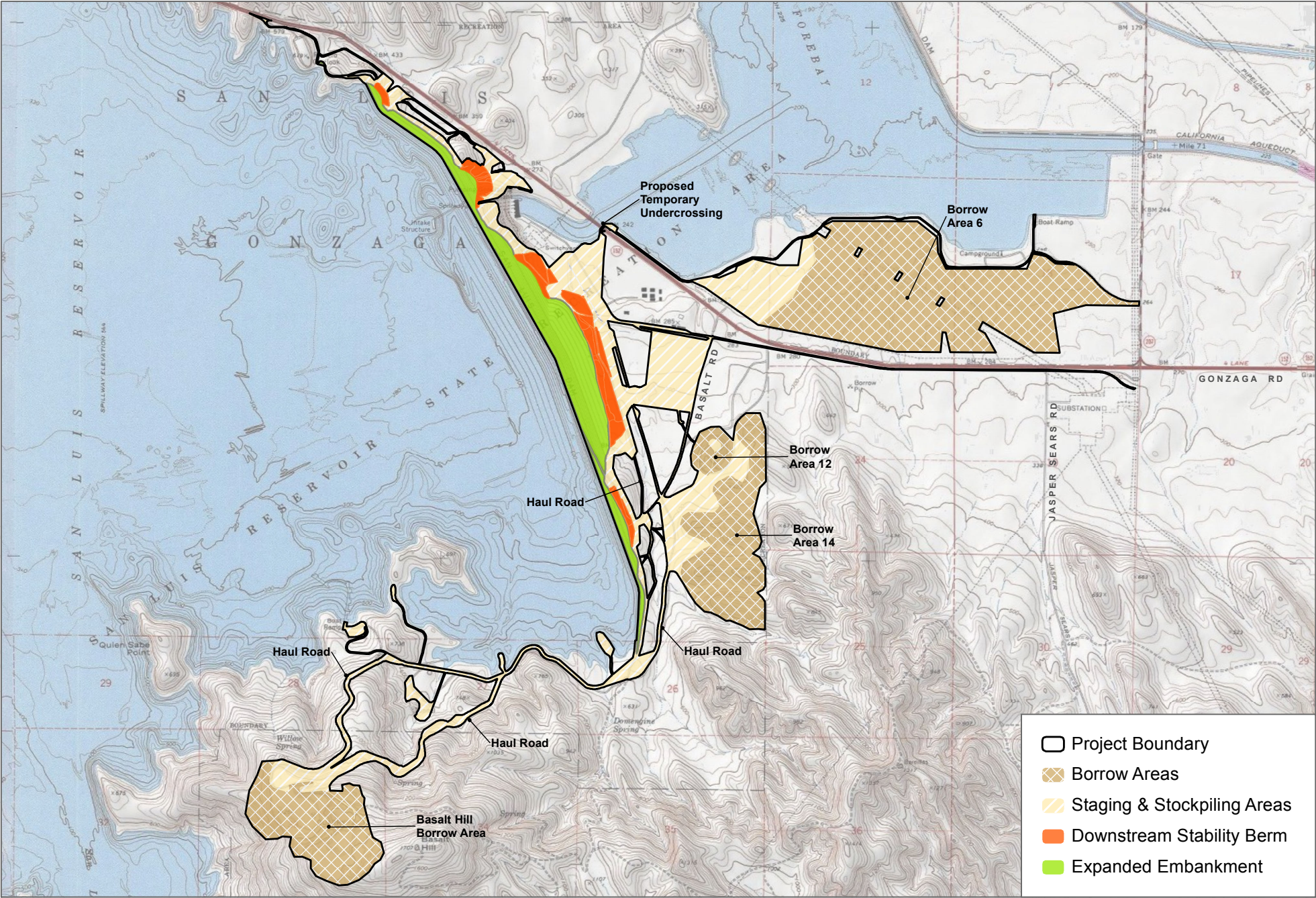
Incidental Take Permit  
No. 2081-2020-064-04  
CALIFORNIA DEPARTMENT OF WATER RESOURCES  
B.F. SISK SAFETY OF DAMS MODIFICATION PROJECT



**DUDEK**  

## Project Location





SOURCE: Basemap: USGS 7.5 Minute San Luis Dam Quadrangle  
Project Boundary & Features: Reclamation, 9/2/2020



## **Attachment 1**

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

**INCIDENTAL TAKE PERMIT NO. 2081-2020-064-04**

**PERMITTEE: California Department of Water Resources**

**PROJECT: B.F. Safety of Dams Modification Project**

### **PURPOSE OF THE MMRP**

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

### **OBLIGATIONS OF PERMITTEE**

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

### **VERIFICATION OF COMPLIANCE, EFFECTIVENESS**

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



## **TABLE OF MITIGATION MEASURES**

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<b>BEFORE DISTURBING SOIL OR VEGETATION</b>					
1	Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Designated Monitor(s) using the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Designated Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Designated Monitor(s) 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(s) and Designated Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Designated Monitor(s) must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. 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. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	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, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
5	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. Dust palliatives shall not be used on the Project Area without prior review of the chemical composition and written approval for use by CDFW.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	A Work Area is defined as the discrete zone(s) within the Project Site where Covered Activities will actively occur. Before starting Covered Activities at each phase of development, the Permittee shall clearly delineate the boundaries of the active Work Area where the Covered Activities will occur with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that Work Area.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
9	The Designated Biologist shall prepare a CTS Mortality Reduction and Relocation Plan (Mortality Reduction and Relocation Plan) and submit it to CDFW for approval prior to the beginning of Covered Activities. The Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area which represents potential upland habitat; the area within 1.3 miles of known or potential breeding habitat for CTS; an identification of survey, capture, handling, and relocation methods; identification of relocation areas; and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Mortality Reduction and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling the Covered Species unless approved in writing by CDFW and under the direct supervision of the Designated Biologist(s).	ITP Condition # 7.3	Before commencing ground- or vegetation-disturbing activities	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
10	<p>Permittee shall submit a SJKF Den Replacement Plan to CDFW prior to the start of Covered Activities. Permittee shall replace each potential, known, and active kit fox den that cannot be avoided within the Project Area with an artificial den to compensate for the loss of important shelter used by kit foxes for protection, reproduction, and escape from predators. Den excavation within the Project Area may not proceed until the SJKF Den Replacement Plan is approved in writing by CDFW's Regional Representative. The SJKF Den Replacement Plan shall include, but not be limited to, a discussion and map of potential artificial den replacement locations; detailed description of the den excavation methods; and description of the replacement den dimensions (e.g., depth and width of den, width of den entrance, orientation of den entrance, number and placement of entrances to natal dens). Once the SJKF Den Replacement Plan is approved by CDFW, it shall be used for the duration of the ITP. Any proposed changes to the SJKF Den Replacement Plan shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any proposed SJKF Den Replacement Plan modifications.</p>	ITP Condition #7.4	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	<p>CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from 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 protected acreage required to provide for adequate compensation.</p> <p>To meet this requirement, the Permittee shall purchase 291.91 CTS upland credits, 695.17 SJKF credits, and 266.69 CTS/SJKF credits from the proposed Piedra Azul Conservation Bank, 658.20 SJKF credits from the Alkali Sink Conservation Bank, and 124.4 CTS upland credits from the Sparling Ranch Conservation Bank, for a total of 2,036.61 habitat credits, before starting Covered Activities pursuant to Condition of Approval 9.2 below. If credits are not available at the proposed Piedra Azul Conservation Bank when the ITP is issued, Permittee may purchase 291.91 CTS upland credits, 695.17 SJKF credits, and 266.69 CTS/SJKF credits from the proposed Piedra Azul Conservation Bank within 12 months of the effective date of the ITP if Security is provided pursuant to Condition of Approval 10 below.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
12	<ul style="list-style-type: none"> <li>i) For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands as follows: Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$6,452.11/acre for 1,253.77 acres: \$8,089,461.95. Land acquisition costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;</li> <li>ii) All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 9.3.1 and 9.3.2 below: \$600,530.00;</li> <li>iii) Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at \$527,423.87;</li> <li>iv) Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at \$351,013.19];</li> <li>v) Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$1,416.67/acre for 1,253.77 acres: \$1,776,177.07. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management</li> <li>vi) Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at \$12,000.00.</li> </ul>	ITP Condition #9.1	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
13	Permittee shall purchase 152 acres of CTS upland habitat credits; 531 acres of combined CTS upland habitat and SJKF habitat credits; and 1,089 SJKF habitat credits from a CDFW-approved mitigation or conservation bank. Permittee shall purchase 291.91 CTS upland credits, 695.17 SJKF credits, 266.69 CTS/SJKF credits from the Piedra Azul Conservation Bank, purchase 658.20 SJKF credits from the Alkali Sink Conservation Bank, and 124.4 CTS upland credits from the Sparling Ranch Conservation Bank prior to initiating Covered Activities, or no later than 12 months from the issuance of the ITP if Security is provided pursuant to Condition of Approval 10 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project.	ITP Condition #9.2	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
14	<p>Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt or an executed Credit Transfer Agreement prior to Project activities or within 12 months from issuance of the ITP if Security is provided.</p> <p>OR</p> <p>To provide for the acquisition and perpetual protection and management of 2,036.61 acres of HM lands, the Permittee shall:</p>	ITP Condition # 9.3	Before commencing ground- or vegetation-disturbing activities (or within 12 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>
15	Transfer fee title of 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.	ITP Condition #9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
16	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 elects not to be named as the grantee for 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 Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.	ITP Condition #9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
17	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, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;	ITP Condition #9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
18	Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;	ITP Condition #9.3.4	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
19	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. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.	ITP Condition #9.3.5	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
20	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://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&amp;inline</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 #9.3.6	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
21	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, species monitoring, and vegetation and invasive species management.  Permittee shall either (1) provide Security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition 9.3.7	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
22	Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the ITP, the conservation easement, and the management plan required by Condition of Approval 9.3.6. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.  After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.	ITP Condition #9.4	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	<p>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.</p> <p>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).</p> <p>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)(3) 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)(3).</p>	ITP Conditions #9.4.1	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
24	After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.	ITP Conditions #9.4.2	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
25	Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.	ITP Conditions #9.4.2.1	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
26	<p>Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <ul style="list-style-type: none"> <li>A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</li> <li>The endowment shall be established assuming spending will not occur for the first three years after full funding.</li> <li>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.</li> </ul>	ITP Conditions #9.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 12 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>
27	Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.	ITP Conditions #9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
28	<p>The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.</p> <p>Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.</p>	ITP Conditions #9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	
29	Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of the ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Conditions #9.5	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
30	<p>The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>Security Amount. The Security shall be in the amount of \$11,356,606.08 or in the amount identified in 9.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.</p> <p>A) Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>B) Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first.</p> <p>C) Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>D) Security Transmittal. Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.</p> <p>E) 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 the ITP.</p> <p>F) Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <ul style="list-style-type: none"> <li>• Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits; and</li> <li>• Timely submission of all required reports.</li> </ul> <p>And/Or</p> <ul style="list-style-type: none"> <li>• Written documentation of the acquisition of the HM lands;</li> <li>• Copies of all executed and recorded conservation easements;</li> <li>• Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and</li> <li>• Timely submission of all required reports.</li> </ul> <p>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 12 months from the effective date of the ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 12 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<b>DURING CONSTRUCTION</b>					
31	<p>The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity. The Designated Biologist shall conduct compliance inspections to:</p> <ol style="list-style-type: none"> <li>(1) minimize incidental take of the Covered Species;</li> <li>(2) prevent unlawful take of species;</li> <li>(3) check for compliance with all measures of the ITP;</li> <li>(4) check all exclusion zones; and</li> <li>(5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.</li> </ol> <p>The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP.</p>	ITP Condition # 7.5	Entire Project	Permittee	
32	<p>The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.5 into a Quarterly Compliance Report and submit it to CDFW along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure no later than the 10th day of the month it is due. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of the ITP and via e-mail to CDFW's Central Region Office and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Office email is R4CESA@wildlife.ca.gov and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.</p>	ITP Condition # 7.6	Entire Project	Permittee	
33	<p>Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.6; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in this MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; (7) Geographic Information Systems (GIS) data files depicting the current extent of permanent and temporary disturbance associated with the Project; (8) GIS data files depicting the location and current status of restoration sites for previous temporary disturbance areas; and (9) information about other Project impacts on the Covered Species.</p>	ITP Condition # 7.7	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
34	The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) 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.	ITP Condition # 7.8	Entire Project	Permittee	
35	The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with the ITP and suggested measures to remedy the situation. Species-specific condition of approval.	ITP Condition # 7.2	Entire Project	Permittee	
36	The Designated Biologist(s) and Designated Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
37	Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 6.8	Entire Project	Permittee	
38	Project-related personnel shall access the Project Area using existing routes, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed a daytime speed limit of 35 miles per hour (mph) and a nighttime speed limit of 20 mph on all designated haul routes, and a daytime speed limit of 20 miles per hour (mph) and a nighttime speed limit of 15 mph on all other portions of the Project area 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 the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.11	Entire Project	Permittee	
39	Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of the ITP.	ITP Condition # 6.12	Entire Project	Permittee	
40	Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 6.13	Entire Project	Permittee	
41	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 the ITP.	ITP Condition # 6.15	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
42	Permittee shall implement fire prevention measures during Covered Activities including, but not limited to: (1) all motorized vehicles shall be equipped with spark arrestors when working in designated State Responsibility Areas, (2) during welding operations, ensure a water-filled backpack pump, a shovel, and fire-resistant mats and/or windscreens are available onsite, (3) prohibit welding operations during "red flag" conditions as determined by the California Department of Forestry and Fire Protection, (4) all fuel trucks shall be equipped with an appropriate fire extinguisher, and (5) parking and storage areas shall be cleared of all flammable materials.	ITP Condition # 6.16	Entire Project	Permittee	
43	Within three months of issuance of the ITP, Permittee shall submit a Habitat Restoration Plan to CDFW for review and approval to facilitate revegetation of the 1,049.1 acres of temporary disturbance on site. Permittee shall restore the soil and vegetation to a condition conducive for Covered Species recolonization. Permittee shall ensure restoration is successfully implemented by the contractor. At a minimum, the Habitat Restoration Plan shall include the following information: (1) a map that identifies the location of the areas to be revegetated; (2) a description of the existing physical and biological conditions of the areas prior to commencement of any restoration activities; (3) identification of the final soil compaction rate less than that of representative adjoining Covered Species habitat to a depth of no less than three feet; (4) description of how the native topsoil from the Work Areas and/or seed will be applied over the area to establish suitable vegetation for Covered Species; (5) a California native plant palette and seed sources; (6) a planting plan, including seed application method; (7) procedures to ensure that nonnative plants are not introduced or allowed to sustain within the revegetation areas and an annual nonnative removal plan; (8) avoidance and minimization measures; (9) monitoring and maintenance measures and a timeline when these will occur; (10) proposed success criteria and contingency measures if the first application is unsuccessful to ensure upland habitat suitability for Covered Species; (11) a funding source to cover the total costs of restoration; and (12) indicate the time of year seeding will occur to ensure adequate growth without supplemental watering or describe the methods of supplemental watering delivery.	ITP Condition # 7.10	Within 3 months of issuance of the ITP Entire Project	Permittee	
44	To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall immediately stop any activity that does not comply with the ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of the ITP.	ITP Condition # 6.3	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
45	Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition #7.11	Entire Project	Permittee	
46	No more than 14 days prior to any vegetation- or ground-disturbing activities at a Work Area, the Designated Biologist shall survey that part of the Work Area which represents potential habitat for CTS. These surveys shall provide 100 percent visual coverage of the potential habitat (including burrow and crevice openings) at the Project Area as well as a 50-foot buffer zone around the Project Area. If CTS individuals are found, the Designated Biologist(s) shall relocate them from the Project Area in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan (Condition of Approval 7.3). The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities within the Work Area.	ITP Condition # 8.1	Entire Project	Permittee	
47	During the Pre-Activity Clearance Surveys (Condition of Approval 8.1), the Designated Biologist shall flag all animal burrows and crevices suitable for CTS occupancy within each Work Area and a 50-foot buffer outside the Work Area. An avoidance buffer of 50 feet or greater around animal burrows/crevices shall be maintained regardless of if the burrow/crevice is in the Work Area or solely within the Work Area's 50-foot buffer zone. Flagged burrows/crevices which occur within 600 meters of known or potential breeding habitat and which cannot be avoided by at least 50 feet shall be fully excavated in accordance with Condition of Approval 8.3 below.	ITP Condition # 8.2	Entire Project	Permittee	
48	<p>Prior to any vegetation- or ground disturbing activities, those animal burrows and crevices identified during the Pre-Activity Clearance Surveys (Condition of Approval 8.1) and flagged (Condition of Approval 8.2) within 600 meters of known or potential CTS breeding habitat as identified in a CTS Mortality Reduction and Relocation Plan (Condition of Approval 7.3), and which cannot be fully avoided by at least 50 feet, shall be fully excavated. Applicable burrows/crevices may be excavated by hand or in a manner otherwise approved by CDFW in accordance with the CDFW approved CTS Mortality Reduction and Relocation Plan (Condition of Approval 7.3). Burrow/crevice excavation shall occur under the direct supervision of the Designated Biologist(s).</p> <p>Those animal burrows and crevices identified outside but within 50 feet of Project Areas shall be similarly excavated if they occur within 50 feet of ground disturbance within the Work Area. This excavation requirement applies regardless of whether the burrow/crevice is located within the Work Area or within 50 feet of the Work Area, except for the following instances, in which excavation is not needed: (1) burrows/crevices outside of the Permittee's access and/or control; or (2) burrows/crevices outside the Work Area and the Work Area is solely an access route or road improvement. The Designated Biologist(s) shall relocate any live CTS discovered during burrow/crevice excavation in accordance with the CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.3 above. Excavation shall occur no more than 14 days after the completion of the Pre-Activity Clearance Surveys as described in Condition of Approval 8.1.</p>	ITP Condition # 8.3	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
49	All CTS captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the CTS; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 7.8. This information should also be included in the Quarterly Compliance (Condition of Approval 7.6) and Annual Status Reports (Condition of Approval 7.7).	ITP Condition # 8.4	Entire Project	Permittee	
50	Ground-disturbing activities within or immediately adjacent (within 250 feet) to potential CTS breeding habitat shall not occur until the pools are dry, unless surveys are conducted to demonstrate the absence of Covered Species eggs or larvae in these pools.	ITP Condition # 8.5	Entire Project	Permittee	
51	To ensure that disease is not conveyed between Work Areas by the Designated Biologist(s) or Designated Monitors(s), the Fieldwork Code of Practice developed by the Declining Amphibian Populations Task Force (see Attachment 3) shall be followed at all times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 8.6	Entire Project	Permittee	
52	The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 50 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground or vegetation disturbance has yet to occur until no further rain is forecast. Work may continue 24 hours after the rain ceases and there is no precipitation in the 72-hour forecast. Work Areas that have already been previously disturbed and surrounded by exclusion fence may continue Covered Activities during rainfall events.	ITP Condition # 8.7	Entire Project	Permittee	
53	The Designated Biologist shall perform a Pre-Activity Survey for SJKF no more than 14 days prior to conducting Covered Activities in a Work Area. The Pre-Activity Survey shall cover the Work Area and 50 feet beyond the limits of the Work Area to identify all potential SJKF dens as well as a buffer zone of 500 feet beyond (where feasible) the limits of the Work Area to identify potential SJKF dens. If the Designated Biologist identifies any potential SJKF dens, the den(s) shall be monitored for at least four (4) consecutive nights with tracking medium and infrared camera to determine the current use of the den(s). Permittee shall provide the Pre-Activity Survey results in a written report to CDFW's Regional Representative at least seven (7) days prior to the beginning of Covered Activities in the Project Site. The Pre-Activity Survey report shall include, but not be limited to, methodology, date and time of survey, the number of potential SJKF dens, a discussion and map of the locations of each potential, known, and natal SJKF den.	ITP Condition # 8.8	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
54	<p>Permittee shall avoid destroying SJKF dens unless they are in an area of direct ground disturbance (e.g., excavation area) or their location poses a risk of direct harm to SJKF individuals. Dens near disturbance but outside of direct impact areas shall remain intact and the Designated Biologist shall block the entrance by installing an object approved in advance in writing by CDFW to prevent SJKF from entering and utilizing the den during Covered Activities. The Designated Biologist shall remove the object immediately after Covered Activities are completed in the Work Area when the Designated Biologist has determined that potential resumed use of the den will not result in harm to SJKF. Permittee shall not destroy or modify dens that are beyond the direct footprint of ground disturbance to preempt their use and den buffer establishment or for any other purpose. If a potential SJKF den (any subterranean hole, three inches or larger, for which no evidence is present to conclude that the den is being used or has been used by a SJKF) is discovered or a SJKF is found in an "atypical" den (e.g., a pipe or culvert), Permittee shall establish a minimum 50 foot no-disturbance buffer around the den. If a known den (one that shows evidence of current use or was used in the past) is discovered, Permittee shall establish a minimum no-disturbance buffer of at least 100 feet around the den. If a natal den (den in which SJKF young are reared, typically with two or more openings) is discovered, Permittee shall establish a no-disturbance buffer of at least 200 feet around the den. Natal dens with pups shall have a no disturbance buffer of at least 500 feet. Permittee shall notify the United States Fish and Wildlife Service (USFWS) and CDFW's Regional Representative immediately via telephone and e mail if any SJKF-occupied atypical dens, known dens, or natal dens are discovered within or immediately adjacent to the Project Area.</p>	ITP Condition # 8.9	Entire Project	Permittee	
55	<p>Permittee shall replace each known and natal SJKF den that cannot be avoided as per Condition of Approval 8.9, with an artificial den. Permittee shall install one artificial kit fox den for each known den and three artificial dens for each natal den to be collapsed due to unavoidable disturbance. If there are no suitable existing dens within 100 meters of the collapsed den, the Permittee shall install artificial dens within 100 meters of the collapsed den. Artificial natal dens shall be multi-chambered and have multiple entrances. If greater than 10 suitable kit fox dens are located within a 100 meter radius of the collapsed den, Permittee shall consult with CDFW about appropriate location for installation of artificial dens. Installation of artificial den(s) shall be completed before excavation of known and natal SJKF dens can occur (Condition of Approval 8.12) to compensate for the loss of important shelter used by SJKF for protection, reproduction, and escape from predators. Den replacement shall be completed in accordance with the CDFW-approved SJKF Den Replacement Plan required in Condition of Approval 7.4.</p>	ITP Condition 8.10	Entire Project	Permittee	



	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
56	The Designated Biologist or individuals under direct supervision of the Designated Biologist shall excavate potential or known dens that exhibit signs of SJKF use or characteristics suggestive of SJKF dens (including dens in natural substrate and in/under man-made structures) that cannot be avoided as per Condition of Approval 8.9 only after the Designated Biologist has determined that SJKF is not currently present after four (4) consecutive nights of monitoring with tracking medium and infrared camera. Potential SJKF dens without any signs of SJKF use or characteristics suggesting it is a SJKF den may be excavated under the direct supervision of the Designated Biologist without advance tracking or camera monitoring. Natal dens shall not be excavated until the pups and adults have vacated the den and then only after written concurrence from the USFWS and CDFW to do so. If the excavation process reveals evidence of current use by SJKF, then den excavation shall cease immediately and tracking or camera monitoring as described above shall be conducted/resumed. Excavation of the den shall only resume when, in the judgment of the Designated Biologist, the SJKF has escaped from the partially excavated den. SJKF dens shall be carefully excavated until it is clear no individuals of SJKF are inside. Dens to be destroyed shall be fully excavated, filled with dirt and compacted to ensure that SJKF cannot reenter or use the den during the period that Covered Activities would occur in the Work Area. If an individual SJKF does not vacate a den within the Work Area within a reasonable timeframe, Permittee shall consult with CDFW and the USFWS to obtain written guidance from both agencies prior to proceeding with den destruction. An established SJKF den no disturbance buffer may be removed once the SJKF is no longer using the den.	ITP Condition # 8.11	Entire Project	Permittee	
57	The use of rodenticide(s) is prohibited within the Project Area.	ITP Condition # 8.12	Entire Project	Permittee	
58	After surveying, flagging, and excavating small mammal burrows and SJKF dens, and prior to any surface disturbance, in accordance with Conditions of Approval 8.1, 8.2, 8.3, 8.8, 8.9, and 8.11 above, Permittee shall install exclusion fencing around the perimeter of the Work Area to prevent Covered Species from migrating into the cleared Work Area. Areas to be fenced include all Work Areas except linear haul routes or access roads that are beyond 600 meters from potential CTS breeding habitat. Permittee shall install exclusion fencing only in the particular Work Area where Covered Activities are planned to occur in the immediate future and exclusion fencing shall remain in place until Covered Activities are completed. The fencing material and design shall be summarized in a Work Area-specific fencing plan that will be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed under the direct supervision of the Designated Biologist and no later than 48 hours after the burrow/crevice excavation and relocation work is completed. The Permittee shall also avoid animal burrows and crevices to the maximum extent possible during the installation of the exclusion fence. When animal burrows and crevices that are within 600 meters of known or potential Covered Species breeding habitat cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be excavated as described in Condition of Approval 8.3, above, prior to commencing fence installation. Exclusion fencing shall be removed immediately upon completion of Covered Activities in the fenced Work Area.	ITP Condition # 8.13	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
59	The Designated Biologist(s) shall accompany the exclusion fence construction crew to ensure that Covered Species are not killed or injured during fence installation. The exclusion fence shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the Covered Activities in the Work Area being fenced. Permittee shall check the exclusion fence at least once weekly and maintain/repair the fence when necessary. Permittee shall also avoid animal burrows and crevices and SJKF dens to the maximum extent possible during the installation of the exclusion fence. When animal burrows and crevices that are within 600 meters of known or potential CTS breeding habitat or potential SJKF dens cannot be avoided by a 50-foot no-disturbance buffer from the fence line, Permittee shall be excavated as described in Conditions of Approval 8.3 and 8.11, respectively above, prior to commencing fence installation. When known SJKF dens cannot be avoided by 100 feet, they shall be excavated as described in Condition of Approval 8.11, above. Permittee shall notify CDFW and USFWS if natal dens are observed within 500 feet of the exclusion fence and shall establish no-disturbance buffers as described in Condition of Approval 8.9.	ITP Condition # 8.14	Entire Project	Permittee	
60	Permittee shall ensure that soil stockpiles are placed where soil will not pass into the potential CTS breeding habitat, or into any other "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall stockpile all materials and equipment in a manner that discourages Covered Species' use. In all locations, bundled or loose materials shall not be placed directly on the ground. These materials shall be elevated to discourage use by Covered Species. Materials shall not be placed outside of exclusion fencing.	ITP Condition # 8.15	Entire Project	Permittee	
61	Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Work Area at the beginning, middle, and end of each day (including weekends and any other non-work days) for trapped Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the worker(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. Worker(s) shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist(s) may capture and relocate CTS as per the CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.3 above. If SJKF are observed and does not vacate the area of its own accord within a reasonable timeframe, or cannot vacate the area, CDFW shall be contacted and Permittee shall get written concurrence prior to proceeding with relocation and/or rescue of the SJKF.	ITP Condition # 8.16	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
62	Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move CTS out of harm's way outside of the Work Area and in compliance with the approved CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.3. If a SJKF does not vacate of its own accord within a reasonable timeframe, CDFW shall be contacted and Permittee shall get written concurrence prior to proceeding with eviction of the SJKF.	ITP Condition # 8.17	Entire Project	Permittee	
63	Permittee shall ensure that all pipes, hoses, conduit, culverts, or similar materials stockpiled or installed in the Work Area be capped or otherwise enclosed at the ends to prevent entry by Covered Species. Workers shall thoroughly inspect all construction pipe, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the Covered Species before the object is subsequently moved, buried, or capped. If during inspection, an individual of the Covered Species is discovered inside a pipe, culvert, or similar structure, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Designated Biologist may move CTS out of harm's way outside of the Work Area and in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.3. If a SJKF inside such materials does not vacate of its own accord within a reasonable timeframe, CDFW shall be contacted, and Permittee shall get written concurrence prior to proceeding with eviction of the SJKF.	ITP Condition # 8.18	Entire Project	Permittee	
64	During all Covered Activities, all workers shall inform the Designated Biologist(s) if a Covered Species is observed within or near the Project Area. All work in the vicinity of the observed Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Project Area of its own accord or the Designated Biologist(s) can relocate the Covered Species following the CDFW-approved CTS Mortality Reduction and Relocation Plan specified in Condition of Approval 7.3 above.	ITP Condition # 8.19	Entire Project	Permittee	
65	If a Covered Species is injured as a result of Project related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 7.11. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 8.20	Entire Project	Permittee	
66	Permittee shall ensure that all herbicide use (mixing, application, and clean-up) is done by a licensed applicator in accordance with all applicable state, federal, and local regulations. Permittee shall only apply herbicide sprays via ground application when wind speed measures less than 3 miles per hour. Permittee shall ensure that great care is taken to avoid herbicide outside the boundaries of the Work Area. Permittee shall ensure that any herbicide used where there is the possibility that the herbicide could come into direct contact with water is approved for use in an aquatic environment.	ITP Condition # 8.21	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<b>POST-CONSTRUCTION</b>					
67	Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.15	Post-construction	Permittee	
68	No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; (8) GIS data files depicting the total extent of permanent and temporary disturbance associated with the Project, the location and status of restoration areas for temporary disturbance, and the location of Habitat Management Lands required in Condition of Approval 9; and (9) any other pertinent information.	ITP Condition # 7.9	Post-construction and after completion of mitigation	Permittee	
69	CDFW accepts the Final Mitigation Report as complete.	ITP Condition # 6.16	Post-construction	CDFW	

## ATTACHMENT 2

### **Name of Biologist & Contact Information**

**Education:** (include year graduated)

**Training/Workshops:** (be prepared to provide copies of certificates upon request; these should be related to the Covered Species (or similar species) in the Incidental Take Permit)

**Certifications:** (please provide any copies of a CDFW Scientific Collecting Permit, MOU, or USFWS 10(a)(1)(A)) permit; these should be related to the Covered Species (or similar species) in the Incidental Take Permit)

### **Species Name #1 (Example: California Tiger Salamander)**

Project Name #1 (list the information below for all projects (separately) where biologist worked with this species; projects may be listed more than once under each separate species and please only include projects on the resume that demonstrate experience with the Covered Species (or similar species) in the ITP)

Location:

Project date completed: To and from date (month and year)

Incidental Take Permit (ITP) # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #2

Location:

Project date completed: To and from date

Incidental Take Permit # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #3 ...

**Species Name #2 (Example: San Joaquin Kit Fox)**

Project Name #1: (list the information below for all projects (separately) where the biologist worked with this species)

Location:

Project date completed: To and from date

Incidental Take Permit (ITP) # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles (if applicable)

Dens observed (list all potential, known, and/or natal):

Dens excavated (list all potential, known, and/or natal):

Project Name #2:

Location:

Project date completed: To and from date

Incidental Take Permit (ITP) # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles (if applicable)

Dens observed (list all potential, known, and/or natal):

Dens excavated (list all potential, known, and/or natal):

Project Name #3: ...

**Species Name #3 (Example: Similar or related species to California Tiger Salamander or San Joaquin Kit Fox)**

Project Name #1 (list the information below for all projects (separately) where the biologist worked with this species)

Location:

Project date completed: To and from date

Incidental Take Permit # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #2

Location:

Project date completed: To and from date

Incidental Take Permit # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #3 ...

Include any other relevant information to the Covered Species or implementation of Conditions of Approval in the ITP

## The Declining Amphibian Task Force Fieldwork Code of Practice

A code of practice, prepared by the Declining Amphibian Task Force (DAPTF) to provide guidelines for use by anyone conducting field work at amphibian breeding sites or in other aquatic habitats. Observations of diseased and parasite-infected amphibians are now being frequently reported from sites all over the world. This has given rise to concerns that releasing amphibians following a period of captivity, during which time they can pick up unapparent infections of novel disease agents, may cause an increased risk of mortality in wild populations. Amphibian pathogens and parasites can also be carried in a variety of ways between habitats on the hands, footwear, or equipment of fieldworkers, which can spread them to novel localities containing species which have had little or no prior contact with such pathogens or parasites. Such occurrences may be implicated in some instances where amphibian populations have declined. Therefore, it is vitally important for those involved in amphibian research (and other wetland/pond studies including those on fish, invertebrates and plants) to take steps to minimize the spread of disease and parasites between study sites.

1. Remove mud, snails, algae, and other debris from nets, traps, boots, vehicle tires and all other surfaces. Rinse cleaned items with sterilized (e.g. boiled or treated) water before leaving each study site.
2. Boots, nets, traps, etc., should then be scrubbed with 70% ethanol solution (or sodium hypochlorite 3 to 6%) and rinsed clean with sterilized water between study sites. Avoid cleaning equipment in the immediate vicinity of a pond or wetland.
3. In remote locations, clean all equipment as described above upon return to the lab or "base camp". Elsewhere, when washing machine facilities are available, remove nets from poles and wash with bleach on a "delicates" cycle, contained in a protective mesh laundry bag.
4. When working at sites with known or suspected disease problems, or when sampling populations of rare or isolates species, wear disposable gloves and change them between handling each animal. Dedicate sets of nets, boots, traps, and other equipment to each site being visited. Clean and store them separately and the end of each field day.
5. When amphibians are collected, ensure the separation of animals from different sites and take great care to avoid indirect contact between them (e.g. via handling, reuse of containers) or with other captive animals. Isolation from un-sterilized plants or soils which have been taken from other sites is also essential. Always use disinfected/disposable husbandry equipment.
6. Examine collected amphibians for the presence of diseases and parasites soon after capture. Prior to their release or the release of any progeny, amphibians should be quarantined for a period and thoroughly screened for the presence of any potential disease agents.
7. Used cleaning materials (liquids, etc.) should be disposed of safely and if necessary taken back to the lab for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.



**[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

**[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"]

State of California - Department of Fish and Wildlife

**MITIGATION PAYMENT TRANSMITTAL FORM**

DFW 1057 (REV.05/18/21)

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

<b>1. DATE:</b> _____  <b>TO:</b> _____ Regional Manager  _____ Region Office Address	<b>2. FROM:</b> _____ Name  _____ Mailing Address  _____ City, State, Zip  _____ Telephone Number/FAX Number
<b>3. RE:</b> _____ Project Name as appears on permit/agreement	

**4. AGREEMENT/ACCOUNT INFORMATION:** (check the applicable type)
☐ 2081 Permit    ☐ Conservation Bank    ☐ 2835 NCCP    ☐ 1802 Agreement    ☐ 1600 Agreement    ☐ Other \_\_\_\_\_

 \_\_\_\_\_  
 Project Tracking Number
**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: \_\_\_\_\_

<b>ACCOUNTING OFFICE USE ONLY</b>	
Description	FI\$Cal Coding
Speedchart (Project, Program, Reference, Fund)	
Reporting Structure	
Category	
Date Established: _____ By: _____	

Please send this form to [asbmitigation@wildlife.ca.gov](mailto:asbmitigation@wildlife.ca.gov)