



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



June 16, 2022

Jaxon 'Jack' Baker, President
Chowchilla Asphalt, Inc.
Post Office Box 994248
Redding, California 96099
wjbaker@wjbinc.net

Subject: Reissued Incidental Take Permit for Madera Quarry (2081-2012-005-04)

Dear Mr. Baker:

Enclosed you will find an electronic copy of the reissued 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. 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 Crystal Sinclair, Environmental Scientist, at crystal.sinclair@wildlife.ca.gov.

Sincerely,
DocuSigned by:

Handwritten signature of Valerie Cook in blue ink.

96D42C58E092466...

Valerie Cook, Acting Regional Manager
Central Region
California Department of Fish and Wildlife

Enclosure



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

California Endangered Species Act
Reissued Incidental Take Permit No. 2081-2012-005-04

MADERA QUARRY

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

Permittee:	Chowchilla Asphalt, Inc.
Principal Officer:	Jaxon 'Jack' Baker, President
Contact Person:	Jaxon 'Jack' Baker, 530-515-6683
	Kim Enderson, 530-241-2112
Mailing Address:	P.O. Box 994248
	Redding, California 96099

Effective Date and Expiration Date of this ITP:

This ITP is being reissued to replace Shimmick-Baker, LLC with Chowchilla Asphalt Inc and to incorporate the changes detailed in Amendment No. 1 (Attachment 6) and Amendment No. 2 (Attachment 7). This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **February 28, 2066**.

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 7.7 of this ITP.

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

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

Project Location:

The Madera Quarry (Project) is located east of Road 209 approximately 4.0 miles north of its intersection with State Route (SR) 41 within an unincorporated area of Madera County (Figure 1). The Project is located approximately 16 miles northeast of the City of Madera in Township 10N, Range 20E, Section 4 Mount Diablo Baseline and Meridian.

Project Description:

The Project includes development of a new 78-acre hardrock quarry that will mine 900,000 tons of aggregate annually, which will result in a total of approximately 45 million tons of material being mined over the 50-year life of the Project. The mining excavation area will be approximately 2,200 feet in length; 1,700 feet wide; and up to 200 feet in depth. Project implementation will also result in development of a 28-acre aggregate processing plant, hot mix asphalt plant, materials stockpile areas, administration complex, and parking areas. Haul roads within the quarry will connect to a new 1.7-acre main access road. The whole of the quarry site will be surrounded by a 12.9-acre buffer and the buffer, quarry site, batch plants, buildings, and main access haul road will occur within an approximately 121-acre portion of the 540-acre Madera Ranch property (Figure 2). The 121-acre Project site is itself comprised of two acreage areas; a 68.71-acre northern section and a 52.29-acre southern section. The northern 68.71 acres of the Project site is under a Williamson Act Contract (Contract) which will expire February 28, 2014, under a Notice of Non-Renewal. This northern 68.71-acre portion of the Project site cannot be developed until March 1, 2014. The Contract on the southern 52.29 acres has previously been canceled and can be developed without restrictions. The 52.29 acres are to be developed first into the 28-acre processing plant and administration building areas as well as the 17.29 acres of the quarry mine excavation area. The remaining 68.71 acres will be subsequently developed after the Contract expires in 2014 into the remaining 61 acres of quarry mine excavation site and the 12.9 acres of quarry buffer.

Additional construction includes the alignment and widening of Road 209 and improvements to the Road 209 and State Highway 41 intersection which will result in an additional 14.6 acres of impact and requires crossing Hildreth Creek and its tributaries in ten (10) locations; these crossings necessitate installation of new culverts or replacement of existing culverts for which a Streambed Alteration Agreement (SAA) (No. 1600-2007-0209-R4) was obtained and which expires on June 16, 2013. Project activities will also result in diversion of an unnamed intermittent drainage currently located within the mine area. An SAA for the stream alignment will be sought.

The Project will also set aside 272 acres of Habitat Management (HM) lands to offset the impacts to non-native grassland and vernal pool habitat. Within these Habitat Management (HM) lands, the Project proposes to fulfill its wetland creation and enhancement mitigation. This will be accomplished in accordance with a CDFW-approved Wetland Development Plan (Plan). This Plan will include the methodology for the creation of one vernal pool and the enhancement of an existing stockpond to function as a seasonal pond located on the

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

HM lands and will result in a maximum of 0.06-acres of grassland habitat impacts (Figure 3) and a maximum 0.3 acre of impacts to the area of the stockpond, reducing the size of pond to 0.2 acres.

Project activities include the following: clearing of vegetation; removal and storage of topsoil and overburden material; mining the Project site through drilling, blasting, excavation, and operation of heavy equipment; construction of haul roads; alignment and widening of Road 209; improvements to the Road 209 and State Highway 41 intersection; construction of a stationary plant site within the quarry pit; diversion of an unnamed intermittent drainage; construction of operations facilities including the aggregate processing plant, hot mix asphalt batch plant, materials storage sites, an administrative building, and parking areas; reclamation of the Project site by contouring the sides of the mine pit and other disturbed areas, redistribution of stockpiled soil and overburden material, reseeding some of the disturbed areas; and creation and enhancement of seasonal ponds on the HM lands.

Equipment needed to perform the above Project activities include bulldozers, backhoes, motor graders, hydraulic shovel scrapers, blasthole drill rigs, water trucks, front-end loaders, and haul trucks. Mine operating hours, including hauling of mined material and operation of the asphalt batch plant, will be from 6:00 a.m. to 7:00 p.m. Monday through Friday though some Saturday and night work may be required to keep up with contracted material demands, including some 24-hour per day work for limited periods. However, notwithstanding any other authorized operations, any hauling of mined materials is prohibited along Road 209 from December 1 through February 28 beginning 30 minutes before sunset and ending 30 minutes after sunrise, for each year of operation.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ³

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

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include grubbing; clearing, grading; leveling (soil cut and/or fill); compaction of building pads and new access roads; removal and stockpiling of topsoil; removal and stockpiling of overburden; blasting, excavation, removal, processing, and stockpiling of mined material; trenching and boring to accommodate water,

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

utility, and fuel lines; improvements to an existing road and intersection including widening and resurfacing; construction of new haul road including surfacing, the installation of stream crossings, culverts, and alignment of the stream course; construction and operation of the processing plant and the concrete and asphalt batch plant including installation of materials storage silos, mixer bins, weigh belts, batch control facilities, mixer washout facilities, dust control bag houses, truck hopper, asphalt storage tanks, ingress and egress routes; construction of pads and the installation of equipment fuel tanks; construction of the administrative building area including the development of building pads and the preparation and paving of a parking area, ornamental landscape areas; application of dust suppressants; accidental spills of oil, asphalt, wastewater, or other hazardous materials used in mining operations and at concrete/hot mix asphalt batch plants; mine reclamation activities including topography contour, spreading of stockpiled topsoil, fill, reseeding and revegetation, and invasive species management; and modification of HM lands to create one new vernal pool and enhancement of an existing stockpond to provide seasonal breeding ponds on approximately 0.26-acres of HM lands (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 vehicle/equipment strikes during site preparation, on-going mining operations, hauling of mined material, and at road/intersection improvements; collapse or excavation of occupied burrows during removal of topsoil, overburden, blasting activities, and excavation of mined material, or during trenching, cut/fill, grading, removal of vegetation, road construction and alignment activities; entombment of individuals from deposition of stockpiled soil or mined material over occupied burrows; crushing or entombment of individuals during vegetation, top soil, or overburden removal, soil compaction, grading activities, development of structure and equipment building pads, construction of haul roads, intersection improvements, stream course alignment, and installment of tanks, and other facilities; entrapment and burial within trenches and open pipelines; by ingestion or entrapment in spilled oil, wastewater, or other hazardous materials; and excavation, crushing, or entombment of individuals during pond creation and enhancement. Incidental take of individuals of the Covered Species in the form of pursuit or capture is also expected through the entrapment in holes or trenches, uncovering Covered Species through the excavation of burrow systems, by corralling Covered Species into a confined area when barrier fencing is constructed around the mine pit, and when individuals of the Covered Species are relocated out of harm's way as required by this ITP.

The Project is expected to cause the permanent loss of 135.4 acres of upland grassland habitat for the Covered Species through the excavation and development of the 121 acres of the mining site (including stream alignment activities); the 14.6 acres associated with the Road 209 alignment and the Road 209 and State Highway 41 intersection improvements; and permanent loss of 0.24 acres of breeding habitat on the proposed HM lands where new or enhanced CTS breeding ponds will be developed in accordance with a CDFW-approved wetland development plan (collectively, the Project Area). Covered Species breeding habitat enhancements include new vernal pool creation on 0.06 acres and a reduction of a

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

stockpond by 0.3 acres. The reduction of the stockpond size is expected to improve breeding habitat quality for the Covered Species by reducing habitat quality for invasive species such as bullfrogs (*Rana catesbeiana*). The area exposed by the pond reduction is expected to provide 0.3 acres of upland grassland habitat for the Covered Species and result in a net 0.24 acres of new upland grassland habitat on the HM lands. Additional impacts within the 135.4-acre Project Area include 0.90 acres of habitat disturbance occurring in the absence of implementing take minimization measures. Specifically, 0.17 acres of upland habitat subject to ground disturbance in the absence of pre-construction surveys and burrow excavation and 0.73 acres of impacts to upland habitat and on-site streams and swales to remedy uncontrolled erosion. 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 vibration associated with blasting and other mining activities; introduction or spread of invasive species; changes in drainage patterns that favors different vegetative growth; and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for capture and relocation of Covered Species as authorized by this ITP.

Conditions of Approval:

Unless specified otherwise, the following measures shall pertain to all Covered Activities within the Project Area, including areas used for vehicular or equipment 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. **California Environmental Quality Act (CEQA) Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

the Biological Resources section of the Final Revised Environmental Impact Report (SCH Number 2003102128) certified by Madera County on June 16, 2010, as lead agency and as further described and considered in the Addendum to the Final Revised Environmental Impact Report approved by CDFW acting as a Responsible Agency (as defined in the CEQA Guidelines section 15381) May 14, 2013, for the Project pursuant to CEQA (Pub. Resources Code, § 21000 *et seq.*).

3. **Lake and Streambed Alteration (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. 1600-2007-0209-R4), as amended for the Project, and any future LSAA's necessary to conduct Covered Activities, executed by CDFW pursuant to Fish and Game Code section 1602 *et seq.*
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Formal Consultation on the Proposed Madera Quarry, Inc., Mining Operation, Madera County, California (Corps File No. 200300748) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the Conditions of Approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
6. **General Provisions:**
 - 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 6.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.

- 6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 6.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- 6.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.

- 6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, shall not allow water to form puddles, and shall only water during daylight hours (30 minutes after sunrise and stop 30 minutes before sunset).
- 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. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or Federal law enforcement officials.
- 6.10. Delineation of Property Boundaries. Before starting Covered Activities in each work area (Road 209 alignment, Road 209 and State Highway 41 intersection, processing area, mining areas, and pond enhancement/creation areas) (Work Area), Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities in each Work Area.
- 6.11. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.12. Project Access. Project-related personnel shall access the Project Area using existing routes or new routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

- 6.13. 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.
- 6.14. Hazardous Waste. In the event of a fuel or hazardous waste leak or spill, the Permittee shall immediately stop work and, following pertinent state and federal statutes and regulations arrange for repair and clean up by qualified individuals at the time of occurrence or as soon as it is safe to do so. Any hazardous materials stored on-site during construction or operation and maintenance (O&M) shall be the minimum necessary for Project implementation and shall be stored in contained areas that preclude exposure to wildlife.
- 6.15. 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.
- 6.16. Refuse Removal. Upon completion of Covered Activities in each Work Area, Permittee shall remove from each Work Area and properly dispose of all temporary fill, stockpiled mined materials, and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement. The Designated Representative shall notify CDFW before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when vegetation removal, topsoil removal, overburden removal, other mass grading, or other initial ground-disturbing Covered Activities occur within each Work Area. 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, relocation efforts, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of once quarterly within the Project Area during periods of inactivity and after initial clearing, grubbing, and grading (including topsoil and overburden removal) are completed.

- 7.4. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Lisa Gymer (lisa.gymer@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.
- 7.5. 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 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.

- 7.6. 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.
- 7.7. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 7.8. 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, number of animals taken or injured, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two (2) 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:

- 8.1. California Tiger Salamander Relocation Plan. The Designated Biologist shall prepare a California tiger salamander (CTS) Relocation Plan that shall include, but not be limited to, identification of capture methods, handling methods, 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 CTS relocation plan is approved in writing by CDFW. Only approved Designated Biologist(s) are authorized to capture and handle CTS.

- 8.2. California Tiger Salamander Surveys. Prior to starting any Covered Activities within each Work Area during the CTS breeding season, the Designated Biologist shall survey breeding sites and upland habitat within each Work Area. If any life stages of CTS (adults, eggs, or larvae) are found, the Designated Biologist(s) shall relocate all life stages of CTS from the Project Area footprint in accordance with the CDFW-approved CTS Relocation Plan prepared in accordance with ITP Condition of Approval 8.1 above. Only approved Designated Biologist(s) are authorized to capture and handle CTS.
- 8.3. Small Mammal Burrow Surveys and Excavation. Prior to starting Covered Activities within each Work Area, the Designated Biologist shall survey each Work Area to be disturbed for the presence of small mammal burrows. All small mammal burrows that cannot be fully avoided by at least 50 feet shall be fully excavated by hand. The Designated Biologist shall relocate any live CTS discovered during burrow excavation in accordance with the CDFW-approved CTS Relocation Plan required in ITP Condition of Approval 8.1 above.
- 8.4. California Tiger Salamander Exclusion Fencing. To prevent CTS migrating from the HM lands into the Project Area and from potentially falling into the open active mine pit, permanent CTS exclusion fencing shall be installed along the northern border of the Project Area and around the mine and processing area. Fencing location, material, and design shall be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed after all small mammal burrows inside the planned fence zone are hand excavated by the Designated Biologist in accordance with Condition of Approval 8.3 above to prevent entrapment of CTS within the Work Area. The exclusion fence shall be equipped with one-way exits to avoid entrapment of CTS and other amphibians or reptiles. The Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. When small mammal burrows cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be hand excavated by the Designated Biologist prior to commencing trenching activities as described in ITP Condition of Approval 8.3 above.
- 8.5. California Tiger Salamander in Project Area. If any CTS are found in the Project Area during Covered Activities, all work that could potentially harm the CTS shall stop immediately until the Designated Biologist(s) can relocate the CTS following the CDFW-approved CTS Relocation Plan specified in ITP Condition

of Approval 8.1. Relocation areas shall be identified by the Designated Biologist(s) prior to the start of Covered Activities, and are subject to CDFW approval in accordance with the CDFW-approved CTS Relocation Plan required in ITP Condition of Approval 8.1 above.

- 8.6. Wetland Development Plan. The Permittee shall prepare and submit to CDFW a wetland development plan (Plan) for review and written approval prior to starting any CTS breeding pond creation or enhancement activities on the HM lands. The creation and enhancement activities will occur within a maximum 0.36-acre footprint. Potential CTS burrows shall be avoided by at least 50 feet during all wetland creation or enhancement activities within the HM lands to prevent the collapse of the burrow openings, the burrow system, or otherwise entombing or crushing CTS. If burrows cannot be avoided, then they shall be hand excavated in accordance with ITP Condition of Approval 8.3 and any CTS uncovered during burrow excavation shall be captured and relocated in accordance with the CDFW-approved Relocation Plan as described in ITP Condition of Approval 8.1 above.
- 8.7. California Tiger Salamander Reporting. 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 animal; 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 California Natural Diversity Database (CNDDB) as per ITP Condition of Approval 7.6. This information should also be included in the Quarterly and Annual Compliance Reports.
- 8.8. Rain Forecast. The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 70 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, topsoil and overburden removal, grading, compacting, blasting, and excavation) 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. If work must continue when rain is forecast, a Designated Biologist shall survey each Work Area construction footprint before construction begins each day that rain is forecast to capture and relocate any CTS that are discovered during the surveys. Work Areas that have already been previously disturbed within the active portions of the mine may continue Covered Activities during rainfall events.

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

- 8.9. Night Work. Permittee shall strictly prohibit any work that may occur beginning 30 minutes before sunset and ending 30 minutes after sunrise when a 70 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast.
- 8.10. Seasonal Hauling Restrictions. Hauling of mining materials shall be prohibited along Road 209 during the period of December 1 through February 28 each year beginning 30 minutes before sunset and ending 30 minutes after sunrise.
- 8.11. Soil Stockpiles. Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential CTS breeding pools or into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall prepare an Erosion Control Plan that shall include, but not be limited to, planned proximity of soil stockpiles to waterways, description of stockpile height, description of erosion control methods and materials, and information to support efficacy of erosion control methods and materials. The Permittee shall submit the Erosion Control Plan to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Erosion Control Plan is approved in writing by CDFW.
- 8.12. Fieldwork Code of Practice. Permittee shall follow the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) at all times to ensure that disease is not conveyed between work sites by the Designated Biologist(s). The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. The Designated Biologist will ensure that all traces of the disinfectant are removed before entering the next aquatic habitat.
- 8.13. Open Trenches. The Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped animals. To prevent inadvertent entrapment of Covered Species or any other animals, the Designated Biologist shall oversee the covering of all excavated, steep-walled holes or trenches 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 secured with soil staples or similar means to prevent gaps. Each morning, mid-day, the end of each day (including weekends and any other non-work days), and immediately before holes, sumps, or trenches are back-filled, the Designated Biologist shall thoroughly inspect them for Covered Species. If any worker discovers that Covered

Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist immediately. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and that are between two and eight feet deep shall be covered when workers or equipment are not actively working in the excavation or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. Project workers and the Designated Biologist shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist shall capture and relocate the Covered Species as per the CTS Relocation Plan described in ITP Condition of Approval 8.1 above. The Designated Representative shall contact the CDFW's Regional Representative and the United States Fish and Wildlife Service Sacramento Office within one working day if an injured Covered Species is discovered at any time.

- 8.14. 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, especially if the animal is inside the fenced Project Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved relocation plan required in ITP Condition of Approval 8.1.
- 8.15. Materials Inspection. 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 pipe is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist and allow the animal to safely escape that section of the structure before moving and utilizing the structure.
- 8.16. Covered Species Injury. If a Covered Species is injured as a result of Covered Activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility that routinely evaluates and treats amphibians. Permittee shall identify the facility prior to the start of Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. Notification to CDFW shall be via telephone or e-mail, followed by a written incident report. Notification shall include the

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

date, time, location, and circumstances of the incident and the name of the facility where the animal was taken.

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 with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall provide for both the permanent protection and management of 272 acres of HM lands located immediately north of the Project Area that provide potential breeding opportunities in the form of an existing stockpond and grassland upland refugia habitat for CTS pursuant to Condition of Approval 9.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or by April 26, 2020, if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

9.1. Cost Estimates. CDFW has estimated the cost of 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 \$4,400.00/acre for 272 acres: **\$1,196,800.00**. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
- 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.5 below, estimated at **\$53,238.79**;
- 9.1.3. Interim management period funding as described in Condition of Approval 9.2.6 below, estimated at **\$106,477.58**;
- 9.1.4. Long-term management funding as described in Condition of Approval 9.3 below, estimated at **\$2,478.55/acre** for 272 acres: **\$674,165.60**. The long-term management endowment fund is estimated initially for the purpose of providing Security to ensure implementation of HM land management.

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

9.1.5. 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 9.4, estimated at **\$12,000.00**.

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

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

9.2.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

9.2.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

- 9.2.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.
- 9.2.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <http://www.wildlife.ca.gov/habcon/conplan/mitbank/>); (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;
- 9.2.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, vegetation and invasive species management, and reporting. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement sub-account with CDFW or a CDFW-approved entity for payment to the land manager.
- 9.3. Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management

plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.2.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

9.3.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).

9.3.2. Calculate the Endowment Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment

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

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

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

9.3.2.2.1. 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.

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

9.3.2.2.3. 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.

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

Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

10. Performance Security

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

- 10.1. Security Amount. The Security shall be in the amount of **\$2,042,681.97**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 10.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied as evidenced by:

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

- 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 April 26, 2020. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

Amendment:

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

Stop-Work Order:

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

Compliance with Other Laws:

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

Notices:

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

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

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 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 (2081-2012-005-04) 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
Central Region
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4005
R4CESA@wildlife.ca.gov

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

Crystal Sinclair, Environmental Scientist
California Department of Fish and Wildlife
Central Region
1234 East Shaw Avenue
Fresno, California 93710
Crystal.Sinclair@wildlife.ca.gov

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, Madera County. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Final Revised Environmental Impact Report for Madera Quarry, (State Clearinghouse No. 2003102128) dated March 2010, that Madera County certified for the Madera Quarry Project on June 16, 2010. At the time the lead agency certified the Environmental Impact Report (EIR) and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

Madera County's Final Revised EIR assumed presence of the Covered Species although, at the time of the Final Revised EIR's certification, the California Fish & Game Commission's (Commission) decision to list California Tiger Salamander was not in effect. Notably, on August 19, 2010, less than a month after the County's June 15, 2010 certification of the Final Revised EIR, the Commission's decision to list CTS pursuant to CESA became effective.

CDFW acting as a Responsible Agency (as defined in the CEQA Guidelines section 15381) prepared and approved CEQA Findings and Addendum dated May 14, 2013 to the Lead Agency's Final Revised EIR dated March 2010. Mitigation measures described in the Final Revised EIR and further considered in the May 14, 2013 CEQA Findings and Addendum are conditions necessary for the issuance of this ITP.

This ITP, along with CDFW's related CEQA Findings and Addendum provide evidence of CDFW's consideration of the lead agency's EIR, and its own Addendum 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 its own Addendum, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

Findings Pursuant to CESA:

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. (Fish & 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, the Final Revised EIR for Madera Quarry, the Addendum to the Final Revised EIR, the results of a site visit and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) 272 acres of permanent compensatory habitat that is adjacent to and of equal value to the Covered Species as the habitat being destroyed by the Project; (2) enhancement of an existing potential breeding pond, and creation of a new

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

potential breeding pond within the HM lands to enhance their value as Covered Species breeding habitat; (3) establishment of avoidance zones to minimize impacts to the Covered Species; (4) worker education; and (5) Quarterly and Annual 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, along with the minimization, monitoring, reporting, and funding requirements of this ITP, CDFW determined that the impacts of the taking caused by the Project will be minimized and fully mitigated.

- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

Attachments:

FIGURE 1	Project Location Map
FIGURE 2	Project Site Map
FIGURE 3	Pond Enhancement and Creation
ATTACHMENT 1	Mitigation Monitoring and Reporting Program

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice
ATTACHMENT 3A, 3B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form
ATTACHMENT 6	Amendment No. 1
ATTACHMENT 7	Amendment No. 2

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 6/17/2022

DocuSigned by:

Valerie Cook

96D42C58E092466...

Valerie Cook
Acting 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

By: DocuSigned by:

Jack Baker

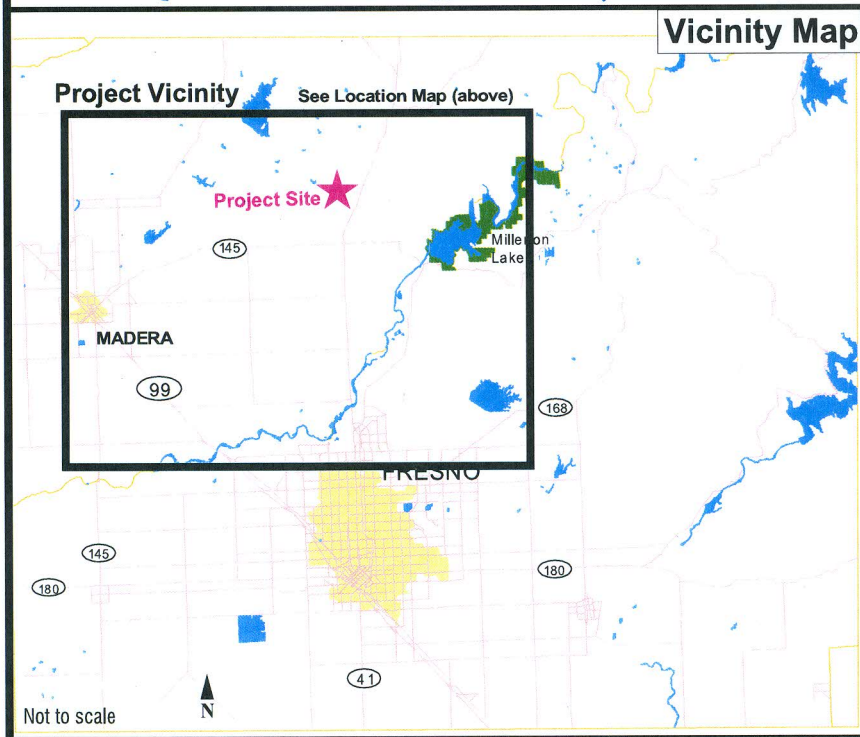
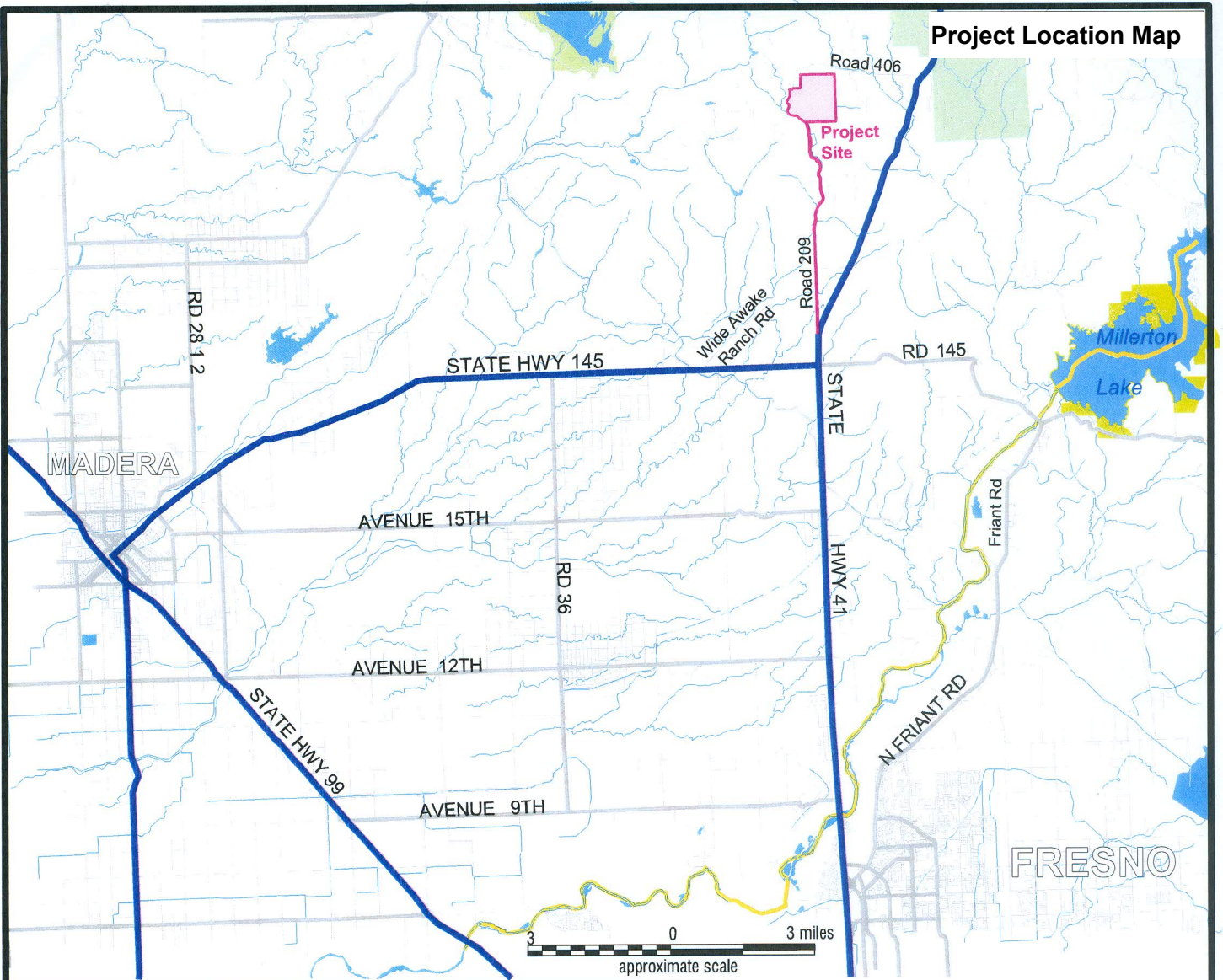
30BBAC416143451...

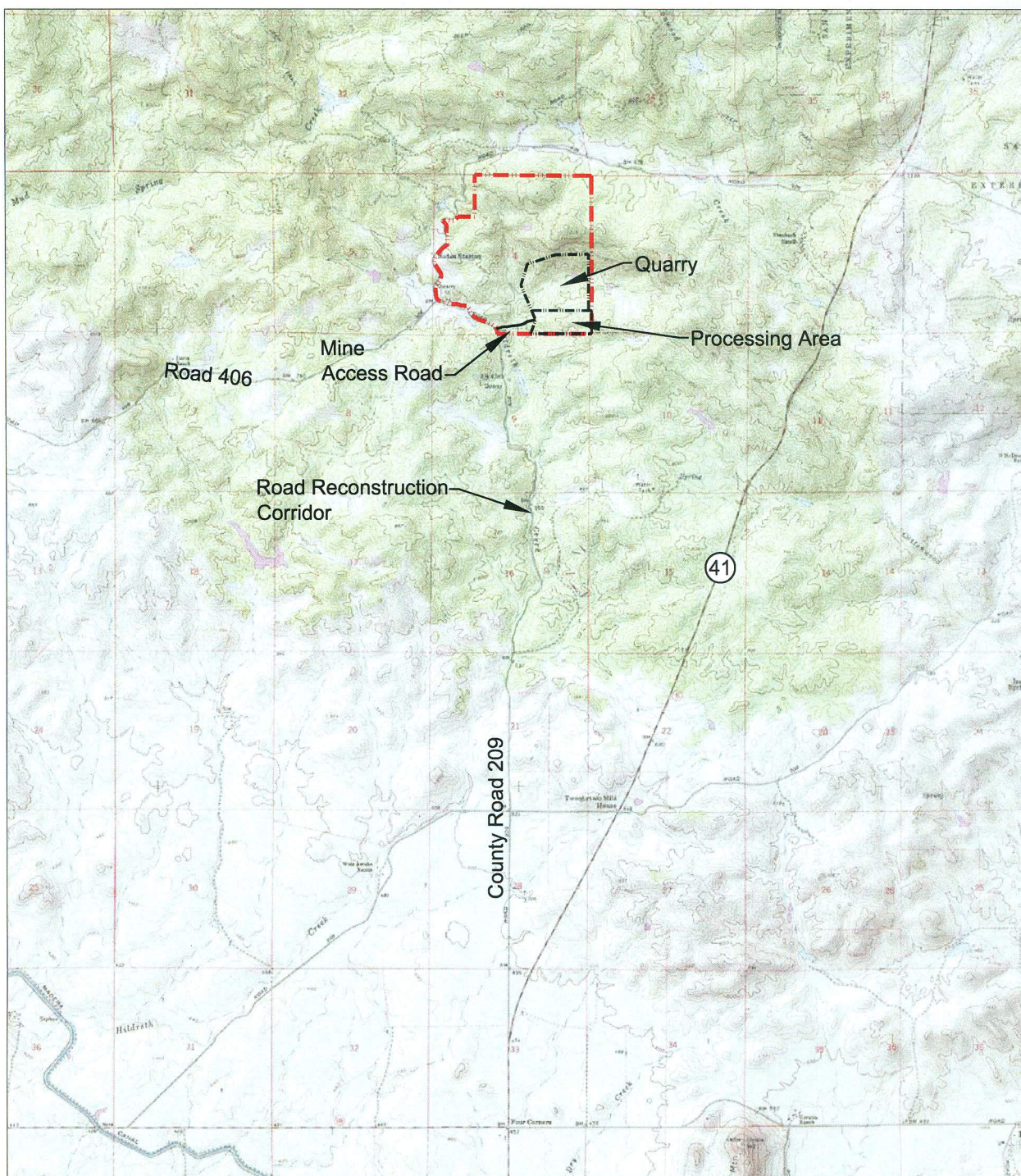
Date: 8/8/2022

Printed Name: jaxin baker

Title: Pres

Incidental Take Permit
No. 2081-2012-005-04
CHOWCHILLA ASPHALT, INC.
MADERA QUARRY

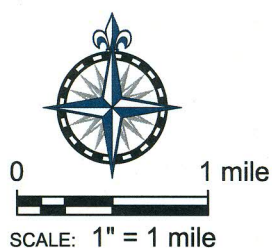




Source: TOPO USA

T. 10 South, R. 20 East, Mt. Diablo B&M

--- Madera Ranch Property Boundary
 --- Proposed Mining Operation and Processing Area

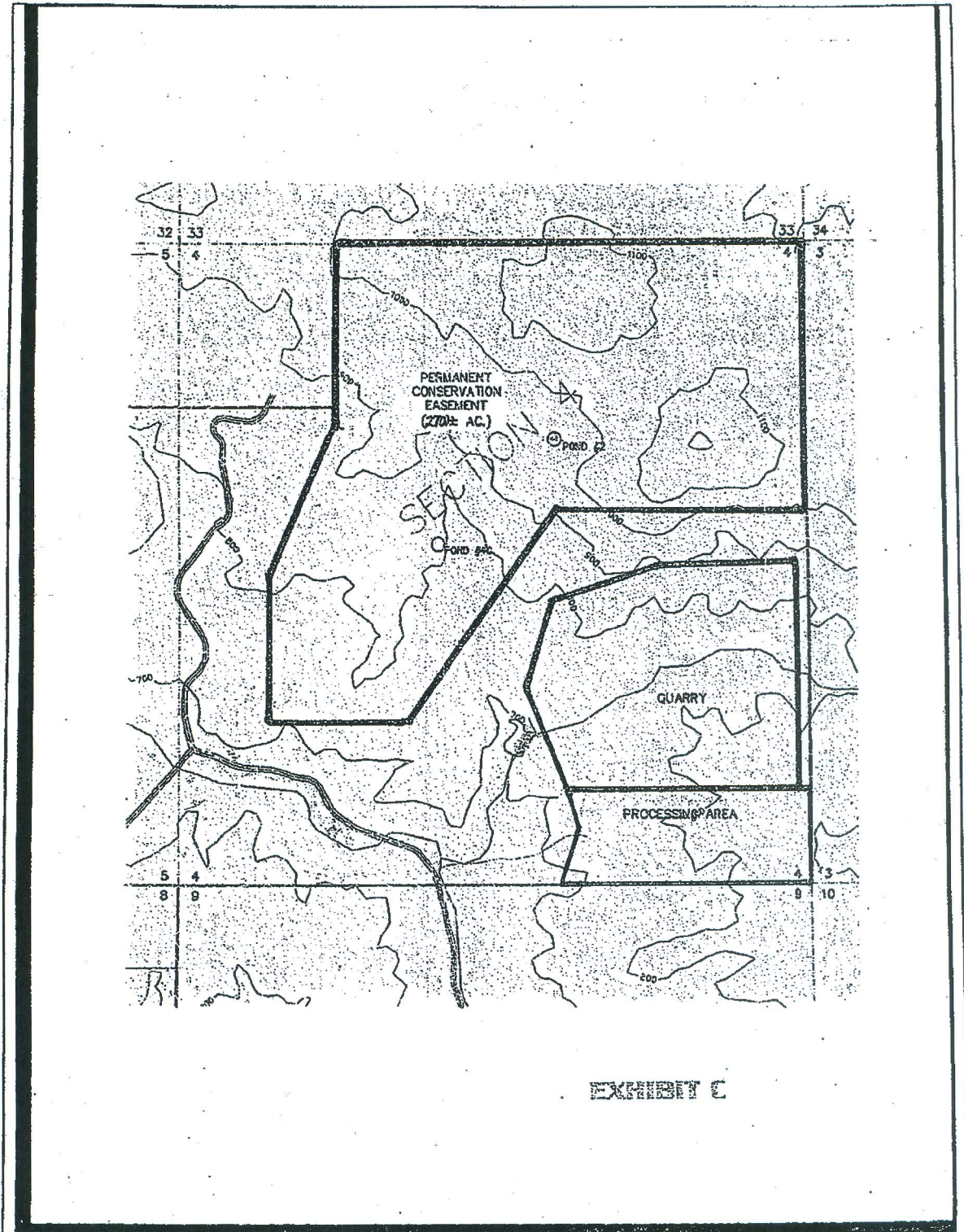


RESOURCE DESIGN TECHNOLOGY, INC.

Figure 2: Site Location
 DRAFT REVISED ENVIRONMENTAL IMPACT REPORT
 MADERA QUARRY PROJECT

Project Location Map

Figure 2



Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2012-005-04

PERMITTEE: Chowchilla Asphalt, Inc.

PROJECT: Madera Quarry

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. This MMRP is being reissued to reflect Amendment No. 1, Amendment No. 2, and the change in Permittee.

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
BEFORE DISTURBING SOIL OR VEGETATION					
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 a biological monitor (Designated Biologist) before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology and natural history of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities / Entire Project	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 provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before their performing work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. The 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 at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	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, shall not allow water to form puddles, and shall only water during daylight hours (30 minutes after sunrise and stop 30 minutes before sunset).	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	Before starting Covered Activities in each work area (Road 209 alignment, Road 209 and State Highway 41 intersection, processing area, mining areas, and pond enhancement/creation areas)(Work Areas), Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities in each Work Area.	ITP Condition # 6.10	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 # 6.11	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	The Designated Representative shall notify CDFW 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	Permittee	
9	The Designated Biologist shall prepare a California tiger salamander (CTS) Relocation Plan that shall include, but not be limited to, identification of capture methods, handling methods, 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.	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities	Designated Biologist	
10	The Designated Biologist shall survey breeding sites and upland habitat within each Work Area. If any life stages of CTS are found, the Designated Biologist(s) shall relocate all life stages of CTS from the Project Area footprint in accordance with the CDFW-approved CTS Relocation Plan prepared in accordance with ITP Condition of Approval 8.1.	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities in each Work Area / Entire Project	Designated Biologist	
11	The Designated Biologist shall survey each Work Area to be disturbed for the presence of small mammal burrows. All small mammal burrows that cannot be fully avoided by at least 50 feet shall be fully excavated by hand. The Designated Biologist shall relocate any live CTS discovered during burrow excavation in accordance with the CDFW-approved CTS Relocation Plan required in ITP Condition of Approval 8.1	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities in each Work Area / Entire Project	Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
12	The Designated Biologist shall install permanent CTS exclusion fencing along the northern border of the Project Area and around the mine and processing area. Fencing location, material, and design shall be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fencing shall be installed after all small mammal burrows inside the planned fence zone are hand excavated by the Designated Biologist in accordance with Condition of Approval 8.3 to prevent entrapment of CTS with the Work Areas. The exclusion fence shall be equipped with one-way exits to avoid entrapment of CTS and other amphibians or reptiles. The Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. When small mammal burrows cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be hand excavated by the Designated Biologist prior to commencing trenching activities as described in ITP Condition of Approval 8.3	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Designated Biologist	
13	Permittee shall provide for the permanent protection and management of 272 acres of Habitat Management (HM) lands by completing the transfer of fee title to a CDFW-approved public agency or the recordation of a conservation easement pursuant to Government Code 65965, and calculation and deposit of the management funds (Condition of Approval 9.3). Permanent protection and perpetual management of compensatory habitat must be complete before starting Covered Activities, or by April 26, 2020, if Performance Security is provided pursuant to Condition 10.	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	
14	<p>CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:</p> <ul style="list-style-type: none"> i) Land acquisition costs for HM lands identified in Condition of Approval 9, estimated at \$4,400.00/acre for 272 acres: \$1,196,800.00. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements; ii) Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.5 below, estimated at \$52,238.79; iii) Interim management period funding as described in Condition of Approval 9.2.6 below, estimated at \$106,477.58; iv) Long-term management funding as described in Condition of Approval 9.3 below, estimated at \$2,478.55/acre for 272 acres: \$674,165.60. The long-term management endowment fund is estimated initially for the purpose of providing Security to ensure implementation of HM land management v) 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 9.4, estimated at \$12,000.00. 	ITP Condition #9.1	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	Prior to initiating Covered Activities, or no later than April 26, 2020 if Performance Security is provided pursuant to Condition 10 below, the Permittee shall transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government code sections 65966(j) and 65967(e).	ITP Condition #9.2.1	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	
16	Permittee shall obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species.	ITP Condition #9.2.2	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	
17	Permittee shall provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.	ITP Condition #9.2.3	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	
18	Permittee shall designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.	ITP Condition #9.2.4	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	Permittee shall 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 http://www.dfg.ca.gov/habcon/conplan/mitbank/); (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 #9.2.5	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	
20	Permittee shall 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, vegetation and invasive species management, and reporting. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement sub-account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition #9.2.6	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	
21	<p>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 provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.2.5. 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.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition #9.3	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
22	The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).	ITP Conditions #9.3.1	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	
23	After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Fund Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and obtain written approval from CDFW of the PAR results before transferring funds to the Endowment Manager.	ITP Conditions #9.3.2	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	
24	Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.	ITP Conditions #9.3.2.1	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	
25	Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment: <ul style="list-style-type: none"> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. The endowment shall be established assuming spending will not occur for the first three years after full funding. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW. 	ITP Conditions #9.3.2.2	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
26	Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Conditions #9.3.3	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	
27	Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM Lands to CDFW.	ITP Conditions #9.4	Before commencing ground- or vegetation-disturbing activities (or by April 26, 2020, if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	<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> <ol style="list-style-type: none"> <u>Security Amount</u>. The Security shall be in the amount of \$2,042,681.97. This amount is based on the cost estimates identified in Condition 9.1 above; <u>Security Form</u>. 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; <u>Security Timeline</u>. 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; <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW; <u>Security Transmittal</u>. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other; <u>Security Drawing</u>. 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; <u>Security Release</u>. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied as evidenced by: <ul style="list-style-type: none"> 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. <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 April 26, 2020. 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 by April 26, 2020, if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
29	The Designated Biologist shall be on-site daily when vegetation removal, topsoil removal, overburden removal, other mass grading, or other initial ground-disturbing Covered Activities occur within each Work Area. 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 the 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, relocation efforts, survey results, and monitoring activities required by the ITP. The Designated Biologist shall conduct compliance inspections a minimum of once quarterly within the Project Area during periods of inactivity and after initial clearing, grubbing, and grading (including topsoil and overburden removal) are completed.	ITP Condition # 7.3	Entire Project	Permittee	
30	The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 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. Quarterly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative. At the time of the ITP's approval, the CDFW Regional Representative is Lisa Gymer (lisa.gymer@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.4	Entire Project	Permittee	
31	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 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 7.4; (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; and (6) information about other Project impacts on the Covered Species.	ITP Condition # 7.5	Entire Project	Permittee	
32	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 # 7.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
33	The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of 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 report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	
34	The Designated Biologist shall maintain a construction-monitoring notebook on-site 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 notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
35	Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 6.8	Entire Project	Permittee	
36	Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.	ITP Condition # 6.9	Entire Project	Permittee	
37	Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP among other reasons, if additional take of Covered Species will result from Project modification.	ITP Condition # 6.12	Entire Project	Permittee	
38	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 specifically provided for in Condition 6.11 of the ITP.	ITP Condition # 6.13	Entire Project	Permittee	
39	Permittee shall immediately stop work and following 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. Any hazardous materials stored on-site during construction or operation and maintenance (O&M) shall be the minimum necessary for Project implementation and shall be stored in contained areas that preclude exposure to wildlife.	ITP Condition # 6.14	Entire Project	Permittee	
40	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
41	If any CTS are found in the Project Area during Covered Activities, all work that could potentially harm the CTS shall stop immediately until the Designated Biologist(s) can relocate the CTS following the CDFW-approved CTS Relocation Plan specified in ITP Condition of Approval 8.1. Relocation areas shall be identified by the Designated Biologist(s) prior to the start of Covered Activities, and are subject to CDFW approval in accordance with the CDFW-approved CTS Relocation Plan required in ITP Condition of Approval 8.1.	ITP Condition # 8.5	Entire Project	Permittee / Designated Biologist	
42	The Permittee shall prepare and submit to CDFW a wetland development plan (Plan) for review and written approval prior to starting any CTS breeding pond creation or enhancement activities on the HM lands. The creation and enhancement activities will occur within a maximum 0.36-acre footprint. Potential CTS burrows shall be avoided by at least 50 feet during all wetland creation or enhancement activities within the HM lands to prevent the collapse of the burrow openings, the burrow system, or otherwise entombing or crushing CTS. If burrows cannot be avoided, then they shall be hand excavated in accordance with ITP Condition of Approval 8.3 and any CTS uncovered during burrow excavation shall be captured and relocated in accordance with the CDFW-approved Relocation Plan as described in ITP Condition of Approval 8.1.	ITP Condition # 8.6	Entire Project	Permittee	
43	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 animal; 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 California Natural Diversity Database (CNDDB) as per ITP Condition of Approval 7.6. This information should also be included in the Quarterly and Annual Compliance Reports.	ITP Condition # 8.7	Entire Project	Permittee / Designated Biologist	
44	The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 70 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, topsoil and overburden removal, grading, compacting, blasting, and excavation) 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. If work must continue when rain is forecast, a Designated Biologist shall survey each Work Area construction footprint before construction begins each day that rain is forecast to capture and relocate any CTS that are discovered during the surveys. Work Areas that have already been previously disturbed within the active portions of the mine may continue Covered Activities during rainfall events.	ITP Condition # 8.8	Entire Project	Designated Biologist	
45	Permittee shall strictly prohibit any work that may occur beginning 30 minutes before sunset and ending 30 minutes after sunrise when a 70 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast.	ITP Condition # 8.9	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
46	Permittee shall prohibit hauling of mining materials along Road 209 during the period of December 1 through February 28 each year beginning 30 minutes before sunset and ending 30 minutes after sunrise.	ITP Condition # 8.10	Entire Project	Permittee	
47	Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential CTS breeding pools or into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall prepare an Erosion Control Plan that shall include, but not be limited to, planned proximity of soil stockpiles to waterways, description of stockpile height, description of erosion control methods and materials, and information to support efficacy of erosion control methods and materials. The Permittee shall submit the Erosion Control Plan to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Erosion Control Plan is approved in writing by CDFW.	ITP Condition # 8.11	Entire Project	Permittee	
48	Permittee shall follow the fieldwork code of practice developed by the, Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2), at all times to ensure that disease is not conveyed between work sites by the Designated Biologist(s). The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. The Designated Biologist will ensure that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 8.12	Entire Project	Permittee	
49	The Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped animals. To prevent inadvertent entrapment of Covered Species or any other animals, the Designated Biologist shall oversee the covering of all excavated, steep-walled holes or trenches 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 secured with soil staples or similar means to prevent gaps. Each morning, mid-day, the end of each day (including weekends and any other non-work days), and immediately before holes, sumps, or trenches are back-filled, the Designated Biologist shall thoroughly inspect them for Covered Species. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist immediately. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and that are between two and eight feet deep shall be covered when workers or equipment are not actively working in the excavation or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. Project workers and the Designated Biologist shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist shall capture and relocate the Covered Species as per the CTS Relocation Plan described in ITP Condition of Approval 8.1. The Designated Representative shall contact the CDFW's Regional Representative and the United States Fish and Wildlife Service Sacramento Office within one working day if an injured Covered Species is discovered at any time.	ITP Condition # 8.13	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
50	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, especially if the animal is inside the fenced Project Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved relocation plan required in ITP Condition of Approval 8.1.	ITP Condition # 8.14	Entire Project	Workers / Designated Biologist	
51	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 pipe is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist and allow the animal to safely escape that section of the structure before moving and utilizing the structure.	ITP Condition # 8.15	Entire Project	Workers / Designated Biologist	
52	If a Covered Species is injured as a result of Covered Activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility that routinely evaluates and treats amphibians. Permittee shall identify the facility prior to the start of Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. Notification to CDFW shall be via telephone or e-mail, followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was taken.	ITP Condition # 8.16	Entire Project	Designated Biologist	
53	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 559-243-4014. The initial notification to CDFW shall include information regarding the location, species, number of animals taken, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two (2) 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, and any other pertinent information.	ITP Condition # 7.8	Entire Project	Permittee	
54	To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Entire Project	CDFW	
POST-CONSTRUCTION					
55	Upon completion of Covered Activities in each Work Area, Permittee shall remove from each Work Area and properly dispose of all temporary fill, stockpiled mined materials, and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.16	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
56	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; and (8) any other pertinent information.	ITP Condition # 7.7	Post-construction and after completion of mitigation	Permittee	

Project Location Map

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.

ATTACHMENT 3A
DEPARTMENT OF FISH AND WILDLIFE

HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS

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

To: _____
Regional Manager, Region Name

From: _____
Project Applicant

Phone: _____

Tracking #: _____
CDFW assigned permit or agreement #

Project Name: _____

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

Documents in this package include:

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

Date executed: _____

☐ Proposed Lands for Acquisition Form (PLFAF)

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

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

Included are additional documents:

☐ document(s) to support title exceptions

☐ document(s) to explain title encumbrances

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

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

☐ County Assessor Parcel Map(s) for subject property

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

☐ Final Permit or Agreement (or other appropriate instrument)

Type of agreement: ☐ Bank Agreement ☐ Mitigation Agreement

☐ Permit _____ Other: _____
(write in type of permit)

☐ Final Management Plan (if required prior to finalizing permit or agreement or if this package is for a Grant Deed)

☐ Biological Resources Report

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

PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

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

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

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

Current Legal Owner(s), include Parcel Number(s):_____

Location of Parcel:

APPROVED ____

REJECTED ____

By: _____

Region

DATE: _____

Explanation: _____

Attachment 4

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

Issue Date: [**date**]

Beneficiary:

Department of Fish and Wildlife
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
Attn: HCPB Mitigation Account 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 the CDFW pursuant to the terms of the incidental take permit for the [**name of project**] issued by the 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 the CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. The 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 the CDFW as defined in paragraph 12 below. Presentation by the 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 the CDFW, or to the account of the CDFW, in immediately available funds, as the CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give the 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, the 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 the CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of the CDFW, as defined in paragraph 12 below.
12. An "Authorized Representative" shall mean either the Director of the Department of Fish and Wildlife, the General Counsel of the Department of Fish and Wildlife, or a Regional Manager of the Department of Fish and Wildlife.
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 the 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 the CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 1416 Ninth Street, 12th Floor, Sacramento, California 95814-2090 Attn: HCPB Mitigation Account 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 the 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: _____

ATTACHMENT A

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

To:

[Name and address of financial institution]

Re: Incidental Take Permit No. **[permit number]**

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

[Insert one of the following: "DIRECTOR" or "GENERAL COUNSEL" or "REGIONAL MANAGER, [NAME OF REGIONAL OFFICE]"

ATTACHMENT B

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

To:

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

Re: Incidental Take Permit No. [**permit number**]

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

1. [**Insert one of the following statements:** "The Applicant has presented documentary evidence of full compliance with the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "The natural expiration of this Credit has occurred."]
2. The CDFW therefore requests the cancellation of the Credit.

Therefore, the CDFW has executed and delivered this Certificate for Cancellation as of the ____ day of _____, _____.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

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

California Department of Fish and Wildlife
Mitigation Payment Transmittal Form

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

(1) **DATE:** _____

TO: _____

[CDFW Regional Manager]

[CDFW Region Office Address]

(2) **FROM:** _____

Name

Mailing Address

City, State, Zip

Telephone Number/FAX Number

(3) **RE:** _____

[Project Name as appears on permit/agreement]

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

(Check the applicable type)

☐ 2081 Permit ☐ Conservation Bank ☐ 1802 Agreement

☐ 2835 NCCP ☐ Other _____

XXXX-XXXX-XXX-XX

[Project Tracking Number]

[FASB Mitigation Tracking Number (if available)]

Index _____ PCA _____

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

Check information:

Total \$ _____

Check No. _____

Account No. _____

Bank Routing No. _____

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

b. Habitat Enhancement Subtotal \$ _____

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ _____

2. Letter of Credit Subtotal \$ _____

1. Financial Institution: _____

2. Letter of Credit Number: _____

3. Date of Expiration: _____

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CENTRAL REGION
1234 EAST SHAW AVENUE
FRESNO, CALIFORNIA 93710

RECEIVED

MAY 07 2019

**HABITAT CONSERVATION
PLANNING BRANCH**



AMENDMENT NO. 1
(A Major Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2012-005-04
Shimmick-Baker LLC
Madera Quarry in Madera County

INTRODUCTION

On 17 May 2013, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2012-005-04 (ITP) to Shimmick-Baker LLC (Permittee) authorizing take of California tiger salamander (CTS; *Ambystoma californiense*) (Covered Species) associated with and incidental to the Madera Quarry in Madera County, California (Project). The Project as described in the ITP originally issued by CDFW includes development and operation of a hardrock quarry. In issuing the ITP, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

The Project includes development of a new 78-acre hardrock quarry that will mine 900,000 tons of aggregate annually, which will result in a total of approximately 45 million tons of material being mined over the 50-year life of the Project. The mining excavation area will be approximately 2,200 feet in length; 1,700 feet wide; and up to 200 feet in depth. Project implementation will also result in development of a 28-acre aggregate processing plant, hot mix asphalt plant, materials stockpile areas, administration complex, and parking areas. Additional construction included the alignment and widening of Road 209 and improvements to the Road 209 and State Highway 41 intersection, which have since been completed.

The Covered Activities were expected to result in the permanent loss of 135.7 acres of upland grassland habitat for the Covered Species. These impacts were to be mitigated through protection of 270 acres of Habitat Management (HM) lands to offset the impacts to non-native grassland and vernal pool habitat. To meet this requirement, the Permittee secured the ITP under a Letter of Credit in the amount of \$2,027,750.40. The Permittee also committed to provide for both the permanent protection and perpetual management of a minimum of 270 acres of Habitat Management (HM) lands located immediately north of the Project Area that provide potential breeding opportunities in the form of an existing stockpond and grassland upland refugia habitat for the Covered Species (Condition of Approval 9 of the ITP) within 18 months of ITP issuance.

In a letter dated January 2, 2018, CDFW notified the Permittee of several issues of non-compliance with the ITP that CDFW was made aware of through the required quarterly compliance reports. Through these reports CDFW became aware of (1) new ground-disturbing activity occurring prior to Covered Species and/or small mammal burrow surveys and excavation (inconsistent with ITP Conditions of Approval (COA) 8.2 and 8.3); (2) erosion of soil stockpiles into on-site streams and swales (inconsistent with COA 8.11); and (3) the lack of protection of compensatory habitat within 18 months of the effective date of the ITP (inconsistent with COAs 9 and 10).

In response to the Notice of Noncompliance, in a series of letters spanning from January 24, 2018 to June 25, 2018, the Permittee requested an amendment to the ITP. In these letters the Permittee requested: (1) that the ITP's Project Description include a description of efforts to remediate 0.17 acres of ground disturbance occurring in the absence of implementing take minimization measures required in the ITP; (2) that the ITP's Project Description include a description of efforts to remediate the erosion of 0.73 acres into on-site streams and swales; (3) an increase in the acreage of Habitat Management lands to compensate for these additional impacts; and (4) they be allowed an additional 58 months to satisfy the compensatory mitigation requirement.

This Major Amendment No. 1 (Amendment) makes the following changes to the existing ITP:

1. Updates the ITP's Contact Person to include an additional point of contact.
2. This Amendment documents impacts to upland habitat and on-site streams and swales occurring in the absence of implementing take minimization measures, as required in the ITP, for the Covered Species.
3. This Amendment describes additional measures that will be taken to remediate and compensate for impacts to and prevent future erosion of soil stockpiles into on-site streams and swales.
4. This Amendment describes the additional Habitat Management (HM) lands, funding, and security required to remediate and compensate for impacts to upland habitat and on-site streams and swales.
5. This Amendment allows the Permittee an additional 58 months to satisfy the compensatory mitigation requirement.
6. Updates the ITP's Notices section to include current CDFW regional contact information.

Major Amendment No. 1
Incidental Take Permit 2081-2012-005-04
SHIMMICK-BAKER LLC
Madera Quarry

AMENDMENT

The ITP is amended as follows (amended language in ***bold italics***; deleted language in ~~strikethrough~~):

1. The second paragraph of page 1 shall be amended to read:

Permittee:	Shimmick-Baker LLC
Principal Officer:	Paul Cocotis, President
Contact Person:	Paul Cocotis <i>and Jeff Lessman</i> , 510-777-5000
Mailing Address:	8201 Edgewater Drive, Suite 202 Oakland, California 94621

2. The first sentence of the third to last paragraph in the Project Description section of the ITP, page 2, shall be amended to read:

The Project will also set aside ***272*** ~~270~~ acres of Habitat Management (HM) lands to offset impacts to non-native grassland and vernal pool habitat.

3. The first sentence of the last paragraph in the Impacts of the Taking on Covered Species section of the ITP, page 4, shall be amended to read:

The Project is expected to cause the permanent loss of 135.7 acres of upland grassland habitat for the Covered Species through the excavation and development of the 121 acres of the mining site (including stream alignment activities); the 14.6 acres associated with the Road 209 alignment and the Road 209 and State Highway 41 intersection improvements; and on approximately 0.06-acres of the proposed HM lands where new or enhanced CTS breeding ponds will be developed in accordance with a CDFW-approved wetland development plan (collectively, the Project Area). ***Additional impacts within the 135.7-acre Project Area include 0.90 acres of habitat disturbance occurring in the absence of implementing take minimization measures. Specifically, 0.17 acres of upland habitat subject to ground disturbance in the absence of pre-construction surveys and burrow excavation and 0.73 acres of impacts to upland habitat and on-site streams and swales to remedy uncontrolled erosion.***

4. Condition of Approval 8.11, on page 13, shall be amended to read:

Soil Stockpiles. Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential CTS breeding pools or into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion. ***Permittee shall prepare***

Major Amendment No. 1
Incidental Take Permit 2081-2012-005-04
SHIMMICK-BAKER LLC
Madera Quarry

an Erosion Control Plan that shall include, but not be limited to, planned proximity of soil stockpiles to waterways, description of stockpile height, description of erosion control methods and materials, and information to support efficacy of erosion control methods and materials. The Permittee shall submit the Erosion Control Plan to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Erosion Control Plan is approved in writing by CDFW.

5. MMRP:

The corresponding MMRP Measure 47, Page 12 shall be amended to read the same as number 4 of the ITP amendment above.

6. Condition of Approval 9, which begins on page 15, shall be amended to read:

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 with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall provide for both the permanent protection and management of **272** ~~270~~ acres of HM lands located immediately north of the Project Area that provide potential breeding opportunities in the form of an existing stockpond and grassland upland refugia habitat for CTS pursuant to Condition of Approval 9.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or within **76** ~~48~~ months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

7. MMRP:

The corresponding MMRP Measure 13, Page 3 shall be amended to read:

Permittee shall provide for the permanent protection and management of **272** ~~270~~ acres of Habitat Management (HM) lands by completing the transfer of fee title to a

CDFW-approved public agency or the recordation of a conservation easement pursuant to Government Code 65965, and calculation and deposit of the management funds (Condition of Approval 9.3). Permanent protection and perpetual management of compensatory habitat must be complete before starting Covered Activities, or within **76 48** months of the effective date of the ITP if Performance Security is provided pursuant to Condition 10.

The timing requirement for this measure in the Implementation Schedule column of the MMRP shall be amended to read:

Before commencing ground- or vegetation-disturbing activities (or within **76 48** months of issuance of the ITP if Performance Security is provided).

8. Conditions of Approval 9.1.1 through 9.1.4, which begin on page 15 of the ITP, shall be amended to read:

9.1 Cost Estimates. CDFW has estimated the cost of 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 \$4,400.00/acre for **272 270** acres: **\$1,196,800.00** ~~\$1,188,000.00~~. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
- 9.1.2 Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.5 below, estimated at **\$53,238.79** ~~\$52,847.33~~;
- 9.1.3 Interim management period funding as described in Condition of Approval 9.2.6 below, estimated at **\$106,477.58** ~~\$105,694.66~~;
- 9.1.4 Long-term management funding as described in Condition of Approval 9.3 below, estimated at \$2,478.55/acre for **272 270** acres: **\$674,165.60** ~~\$669,208.50~~. The long-term management endowment fund is estimated initially for the purpose of providing Security to ensure implementation of HM land management.
- 9.1.5. 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 9.4, estimated at \$12,000.00.

9. MMRP:

The corresponding MMRP Measure 14, Page 3 shall be amended to read the same as number 8 above and the timing requirement in the Implementation Schedule column shall be amended to read:

Before commencing ground- or vegetation-disturbing activities (or within **76 48** months of issuance of the ITP if Performance Security is provided).

10. Condition of Approval 10.1 Security Amount, which begins on Page 20, shall be amended to read:

Security Amount. The Security shall be in the amount of **\$2,042,681.97** ~~\$2,027,750.40~~. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.

11. Condition of Approval 10, **Performance Security**, last paragraph, which begins on Page 21; shall be amended to read:

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 **76 48** 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.

12. MMRP:

The corresponding MMRP Measure, Section a) "Security Amount" of MMRP Measure 28, Page 8, shall be amended to read the same as number 10 of this amendment. The last paragraph of MMRP Measure 28, Page 8 shall be amended to read the same as number 11 of this amendment. The timing requirement of MMRP Measure 28, Page 8 in the Implementation Schedule column shall be amended to read:

Before commencing ground- or vegetation-disturbing activities (or within **76 48** months of issuance of the ITP if Performance Security is provided).

13. The fourth and fifth paragraph, respectively, of the Notices section in the ITP, page 22, shall be amended to read:

Original cover with attachment(s) to:

Julie A. Vance, ~~Jeffrey R. Single~~, Ph. D., Regional Manager
California Department of Fish and Wildlife
Region 4 – Central Region
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4005
Fax (559) 243-4022

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

Jim Vang, ~~Lisa Gymer~~, Staff Environmental Scientist
California Department of Fish and Wildlife
Central Region
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4014, extension **254 238**
Fax (559) 243-4020

14. MMRP:

In addition to those MMRP Measures outlined above, the timing requirement within the Implementation Schedule column of MMRP Measures 15 through 27, beginning on Page 4 and ending on Page 8, shall be amended to read:

Before commencing ground- or vegetation-disturbing activities (or within **76 48** months of issuance of the ITP if Performance Security is provided)

All terms and conditions of the ITP and MMRP that are not expressly amended herein remain in effect and must be implemented and adhered to by the Permittee.

FINDINGS

Issuance of this Amendment will increase the amount of take of the Covered Species compared to the Project as originally approved; however, by implementing the acquisition and permanent protection and management of additional compensatory Habitat Management Lands acreage, it is not expected that this Amendment will

increase Project impacts on these species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

Discussion: This Amendment reflects a change in the acreage of upland habitat and on-site streams and swales impacted by Project activities, though the total area of disturbance of the Project remains the same. This change in take assessment is based on ground-disturbing activities and erosion of soil stockpiles occurring in the absence of implementing take minimization measures as required by the ITP. This Amendment makes five specific changes to the ITP as originally issued. These changes include: (1) updates to the ITP's Contact Person to include an additional point of contact; (2) documentation of impacts to upland habitat and on-site streams and swales occurring in the absence of implementing take minimization measures required in the ITP, as originally issued; (3) addition of measures to more effectively prevent future erosion of soil stockpiles into on-site streams and swales; (4) description of additional Habitat Management (HM) lands acreage, funding, and security required to offset impacts to upland habitat and on-site streams and swales; (5) addition of 58 months to satisfy the compensatory mitigation requirement; and (6) updates to the ITP's Notices section to include current CDFW regional contact information.

CDFW has determined that impacts to upland habitat and on-site streams and swales occurred in the absence of take minimization measures, resulting in Project impacts that were greater than contemplated in the original ITP. Additional compensatory HM Lands are now proposed to be conserved to remediate and fully mitigate those impacts and additional time is needed to satisfy the compensatory mitigation requirement. Other Project activities authorized by the ITP and associated impacts remain unchanged.

Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

Discussion: CDFW determined in May 2013 that the Project, as approved, met the standards for issuance of an ITP under CESA. This determination included findings that, among other things, the impacts of the taking would be minimized and fully mitigated and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with respect to this Amendment because the Project and ITP as amended: (1) will have no effect on the severity of Project-related impacts on the Covered Species because of the requirement of additional HM Lands and (2) does not substantively alter the measures that will be undertaken to minimize and mitigate previously authorized impacts on the Covered Species. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the ITP's Conditions of Approval and MMRP and additional HM Lands will minimize and fully mitigate impacts of the taking on the Covered Species.

None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment.

Discussion: CDFW issued the ITP in May 2013 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the Final Revised Environmental Impact Report certified by Madera County as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment represents a major change in the Project as originally approved. However, for the reasons explained above, CDFW concludes this Amendment is not a change in the Project that has the potential to create a new significant effect not previously analyzed, a substantial change in the circumstances under which the Project is being undertaken requiring major revisions to previous CEQA documents, or new information of substantial importance. As a result, CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of this Amendment.

CDFW finds that this Amendment is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

Discussion: This Amendment documents impacts to upland habitat and on-site streams and swales resulting from not implementing take minimization measures required by the ITP, increases the mitigation acreage required by the original ITP, increases the cost estimates and amount of funding required to satisfy habitat mitigation requirements, extends the Permittee's timeline to satisfy the mitigation requirements, and requires additional measures to more effectively control erosion within the Project Area. Therefore, this Amendment will significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP. CDFW has determined that the change to the ITP constitutes a Major Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

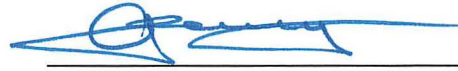
California Department of Fish and Wildlife
Habitat Conservation Planning Branch
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, California 94244-2090

Major Amendment No. 1
Incidental Take Permit 2081-2012-005-04
SHIMMICK-BAKER LLC
Madera Quarry

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on

4/16/18 4/13/19

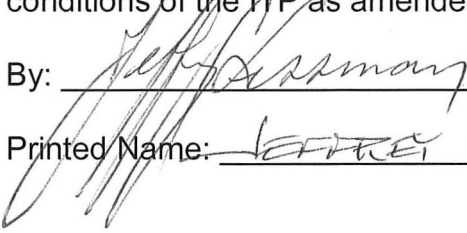


Julie A. Vance
Regional Manager
Central Region

ACKNOWLEDGMENT

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

By:



Date:

4/26/2019

Printed Name:

JEFFREY C LESSMAN

Title:

PRESIDENT

RECEIVED

MAY 07 2019

**HABITAT CONSERVATION
PLANNING BRANCH**

Major Amendment No. 1
Incidental Take Permit 2081-2012-005-04
SHIMMICK-BAKER LLC
Madera Quarry

RECEIVED

JAN 15 2020

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CENTRAL REGION
1234 EAST SHAW AVENUE
FRESNO, CALIFORNIA 93710

HABITAT CONSERVATION
PLANNING BRANCH



AMENDMENT NO. 2
(A Major Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2012-005-04
Shimmick-Baker LLC
Madera Quarry in Madera County

INTRODUCTION

On May 17 2018, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2012-005-04 (ITP) to Shimmick-Baker LLC (Permittee), authorizing take of California tiger salamander (*Ambystoma californiense*) (the Covered Species) associated with and incidental to the Madera Quarry in Madera County, California (Project). The Project as described in the ITP as originally issued by CDFW includes development and operation of a hardrock quarry. The Project includes development of a new 78-acre hardrock quarry that will mine 900,000 tons of aggregate annually, which will result in a total of approximately 45 million tons of material being mined over the 50-year life of the Project. The mining excavation area will be approximately 2,200 feet in length; 1,700 feet wide; and up to 200 feet in depth. Project implementation will also result in development of a 28-acre aggregate processing plant, hot mix asphalt plant, materials stockpile areas, administration complex, and parking areas. Additional construction included the alignment and widening of Road 209 and improvements to the Road 209 and State Highway 41 intersection.

The Covered Activities were expected to result in the permanent loss of upland grassland habitat for the Covered Species. These impacts were to be mitigated through protection of 272 acres of Habitat Management (HM) lands to offset the impacts to non-native grassland and vernal pool habitat. The Permittee also committed to provide for both the permanent protection and perpetual management of a minimum of 272 acres of HM lands located immediately north of the Project Area that provide potential breeding opportunities in the form of an existing stockpond and grassland upland refugia habitat for the Covered Species within 18 months of the effective date of the ITP.

On January 31, 2018, Permittee requested to amend ITP 2081-2012-005-04 by letter. The request included (1) that the ITP's Project Description include a description of efforts to remediate 0.17 acres of ground disturbance occurring in the absence of implementing take minimization measures required in the ITP; (2) that the ITP's Project Description include a description of efforts to remediate the erosion of 0.73 acres into

Rev. 2013.1.1

on-site streams and swales; (3) an increase in the acreage of HM lands to compensate for these additional impacts; and (4) they be allowed an additional 58 months to satisfy the compensatory mitigation requirement.

In a letter dated January 24, 2018, the Permittee requested a Major Amendment to the ITP. Requested changes included updating the Project Description to include activities associated with erosion control and excavation, and extending the deadlines to complete permanent protection of the required HM lands. On April 13, 2019, CDFW issued Amendment No. 1, a Major Amendment, for the Project. Changes include adding an additional Contact Person for the Permittee, increasing the amount of HM lands from 270 acres to 272 acres, describing impacts associated with the CDFW-approved wetland development plan on the HM lands, updating Condition of Approval 8.11 to add an Erosion Control Plan, increasing the performance security, extending the deadline to permanently protect HM lands from 18 months to 76 months from the effective date of the ITP, and changing the CDFW regional contact.

In issuing the ITP and Amendment No. 1 (collectively, ITP, as amended), CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP, as amended, would fully mitigate Project impacts of the taking on the Covered Species and that issuance of the ITP, as amended, would not jeopardize the continued existence of the Covered Species.

On July 23, 2019, a meeting was held at CDFW regarding California Environmental Quality Act (CEQA) compliance, issuance of a Lake and Streambed Alteration Agreement (LSAA), and breeding habitat improvements on the HM lands. The meeting discussed a discrepancy with permanent impacts to aquatic habitat features on the HM lands between the ITP, as amended, and the LSAA. An application for an LSAA submitted to CDFW regarding the enhancement of an existing stockpond demonstrated that the drawdown would cause a reduction of the existing pond surface area from 0.5 acres to 0.2 acres, an impact of 0.3 acres, to improve potential breeding habitat quality for Covered Species. On September 11, 2019, CDFW received an amendment request to amend the Project Description for activities on the HM lands to include a permanent 0.3-acre impact to potential aquatic habitat at a stockpond by converting to an annual pond which provides higher quality breeding habitat for Covered Species by reducing habitat quality for invasive species such as bullfrogs (*Rana catesbeiana*). A representative of the Permittee subsequently contacted CDFW by phone to request an additional extension of the deadline to complete the permanent protection of HM lands. This Major Amendment (Amendment No. 2) adds 0.3 acres of permanent impact to potential breeding habitat and extends the deadline to permanently protect HM lands.

Amendment No. 2 (A Major Amendment) makes the following changes to the existing ITP as amended:

Major Amendment No. 2
Incidental Take Permit 2081-2012-005-04
SHIMMICK-BAKER LLC
Madera Quarry

1. Amendment No. 2 adds 0.3 acres of permanent impact to potential breeding habitat.
2. Amendment No. 2 extends the deadline to complete the permanent protection of HM lands to 82 months from the effective date of the ITP, as amended.
3. Amendment No. 2 corrects information for the current CDFW contact.

AMENDMENT

The ITP as amended is further amended as follows (amended language in ***bold italics***; deleted language in ~~strikethrough~~):

1. The last sentence of the third paragraph in the Project Description, page 2, shall be amended to read:

This Plan will include the methodology for the creation of one vernal pool and the enhancement of an existing stockpond to function as a seasonal pond located on HM lands and will result in a maximum of 0.06-acres of grassland habitat impacts (Figure 3) ***and a maximum 0.3 acre of impacts to the area of the stockpond, reducing the size of pond to 0.2 acres.***

2. The first paragraph in the Impacts of the Taking on Covered Species, pages 3 and 4, shall be amended to read:

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 grubbing; clearing, grading; leveling (soil cut and/or fill); compaction of building pads and new access roads; removal and stockpiling of topsoil; removal and stockpiling of overburden; blasting, excavation, removal, processing, and stockpiling of mined material; trenching and boring to accommodate water, utility, and fuel lines; improvements to an existing road and intersection including widening and resurfacing; construction of new haul road including surfacing, the installation of stream crossings, culverts, and alignment of the stream course; construction and operation of the processing plant and the concrete and asphalt batch plant including installation of materials storage silos, mixer bins, weigh belts, batch control facilities, mixer washout facilities, dust control bag houses, truck hopper, asphalt storage tanks, ingress and egress routes; construction of pads and the installation of equipment fuel tanks; construction of the administrative building area including the development of building pads and the preparation and paving of a parking area, ornamental landscape areas; application of dust suppressants; accidental spills of oil, asphalt, wastewater, or other hazardous materials used in mining operations and at concrete/hot mix

asphalt batch plants; mine reclamation activities including topography contour, spreading of stockpiled topsoil, fill, reseeding and revegetation, and invasive species management; and modification of HM lands to create one new vernal pool and enhancement of an existing stockpond to provide seasonal breeding ponds on approximately ~~0.260.06~~ acres of HM lands (Covered Activities).

3. The third paragraph in the Impacts of the Taking on Covered Species, page 4, shall be amended to read:

The Project is expected to cause the permanent loss of 135.74 acres of upland grassland habitat for the Covered Species through the excavation and development of the 121 acres of the mining site (including stream alignment activities); the 14.6 acres associated with the Road 209 alignment and the Road 209 and State Highway 41 intersection improvements; and on approximately ~~0.06~~ acres of the proposed HM lands **permanent loss of 0.24 acres of breeding habitat on the proposed HM lands** where new or enhanced CTS breeding ponds will be developed in accordance with a CDFW-approved wetland development plan (collectively, the Project Area). **Covered Species breeding habitat enhancements include new vernal pool creation on 0.06 acres and a reduction of a stockpond by 0.3 acres. The reduction of the stockpond size is expected to improve breeding habitat quality for the Covered Species by reducing habitat quality for invasive species such as bullfrogs (*Rana catesbeiana*). The area exposed by the pond reduction is expected to provide 0.3 acres of upland grassland habitat for the Covered Species and result in a net 0.24 acres of new upland grassland habitat on the HM lands.** 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 vibration associated with blasting and other mining activities; introduction or spread of invasive species; changes in drainage patterns that favors different vegetative growth; and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

4. The second sentence of Condition of Approval 8.6 (Wetland Development Plan), page 12, shall be amended to read:

The creation and enhancement activities will occur within a maximum ~~0.360.06~~ - acre footprint.

5. The last sentence of paragraph 2 of Condition of Approval 9, page 15, shall be amended to read:

Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or within **8276** months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

6. The last paragraph of Condition of Approval 10, under Performance Security, which begins on page 21, shall be amended to read:

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 **8276** 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.

7. The last paragraph of the Notices section in the ITP as amended, page 22, shall be amended to read:

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

Jim Vang, Staff Environmental Scientist
California Department of Fish and Wildlife
Central Region
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4014, extension 254
Fax (559) 243-4020

8. Mitigation Monitoring and Reporting Program (MMRP):

Attachment 1 to this Major Amendment No. 2 incorporates the above changes and shall replace the MMRP in the original ITP.

All terms and conditions of the ITP, as amended, and MMRP that are not expressly amended herein remain in effect and must be implemented and adhered to by the Permittee.

FINDINGS

Issuance of Amendment No. 2 will increase the amount of take of the Covered Species compared to the Project as originally approved; however, by implementing the acquisition and permanent protection and management of compensatory Habitat Management Lands acreage, it is not expected that this Amendment will increase Project impacts on these species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

Discussion: Amendment No. 2 makes specific changes to the ITP, as amended. These changes include: (1) adding 0.3 acres of permanent impact to potential Covered Species breeding habitat on the HM lands, raising the total impact to 0.36 acres; (2) extending the deadline to complete permanent protection of the HM lands to 82 months from the effective date of the ITP; and (3) corrects the current CDFW contact's position listed in the ITP as amended.

CDFW has determined that the additional 0.3 acres of permanent impact to potential Covered Species breeding habitat, which involves converting a perennial pond into an annual pond, and delay permanent protection and management of the HM lands increases impacts associated with temporal loss and will increase the severity of short-term impacts of the taking on the Covered Species. However, while short-term impacts may be more severe, the breeding habitat enhancement associated with the pond reduction are expected to benefit the Covered Species long term because it will be less hospitable to invasive species (e.g., bullfrogs) known to predate upon the Covered Species. The new upland habitat features resulting from the pond size reduction are also likely to provide refugia and dispersal habitat for the Covered Species. Given the circumstances of this Project, CDFW believes that the changes to the Project or Conditions of the ITP, as amended, and as described in Amendment No. 2 will not increase impacts to the Covered Species.

Issuance of Amendment No. 2 does not affect CDFW's previous determination that issuance of the ITP, as amended meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

Discussion: CDFW determined in May 2013 and April 2019 that the Project, as approved, met the standards for issuance of an ITP as amended under CESA. This determination included findings that, among other things, the impacts of the taking would be minimized and fully mitigated and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with respect to Amendment No. 2 because the Project and ITP, as amended, and further amended will have no effect on the overall severity of Project-related impacts on the Covered Species because the permanent conversion of the pond into an annual pond will enhance

breeding habitat for the Covered Species. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the Conditions of Approval in the ITP, as amended, and MMRP will minimize and fully mitigate impacts of the taking on the Covered Species.

None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment.

Discussion: CDFW issued the ITP in May 2013 and Amendment No.1 in April 2019 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the Final Revised Environmental Impact Report certified by Madera County as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that Amendment No. 2 is a major change to the ITP, as amended. CDFW finds for the same reasons under CEQA that approval of Amendment No. 2 will not result in and does not have the potential to create any new significant or substantially more severe environmental effects than previously analyzed and disclosed by Madera County during its lead agency review of the Project, particularly with respect to the impacts authorized by CDFW pursuant to the ITP as amended and further amended. As a result, CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of Amendment No. 2.

CDFW finds that this Amendment is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

Discussion: Amendment No. 2 reduces the acreage of potential Covered Species breeding habitat on the HM lands by 0.24 acres, extends the deadline to permanently protect HM lands to 82 months from the effective date of the ITP, as amended, and corrects the current CDFW contact. As described above, these changes increase the short-term impacts associated with the take of Covered Species and increase impacts associated with temporal loss. Therefore, this Amendment will significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP, as amended. CDFW has determined that the change to the ITP, as amended, constitutes a Major Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

The authorization provided by Amendment No. 2 is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of Amendment No. 2 by registered first class mail to CDFW at:

Major Amendment No. 2
Incidental Take Permit 2081-2012-005-04
SHIMMICK-BAKER LLC
Madera Quarry

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

Attachments:

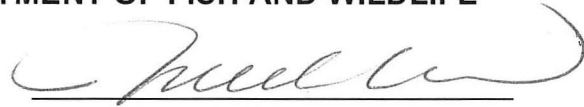
ATTACHMENT 1

Mitigation Monitoring and Reporting Program

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on

12/12/19

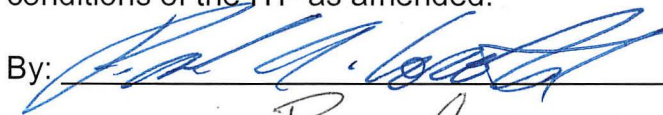


Julie A. Vance
Regional Manager
Central Region

ACKNOWLEDGMENT

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

By:



Date:

12/23/2019

Printed Name:

PAUL COLOTIS

Title:

PRESIDENT

Major Amendment No. 2
Incidental Take Permit 2081-2012-005-04
SHIMMICK-BAKER LLC
Madera Quarry

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
MINOR AMENDMENT No. 2
CALIFORNIA ENDANGERED SPECIES ACT**

INCIDENTAL TAKE PERMIT NO. 2081-2012-005-04

PERMITTEE: Shimmick-Baker, LLC

PROJECT: Madera Quarry

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. This MMRP was amended to reflect Minor Amendment No. 2 (amended language in ***bold italics***; deleted language in ~~strikethrough~~).

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
BEFORE DISTURBING SOIL OR VEGETATION					
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 a biological monitor (Designated Biologist) before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology and natural history of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities / Entire Project	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 provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before their performing work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. The 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 at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	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, shall not allow water to form puddles, and shall only water during daylight hours (30 minutes after sunrise and stop 30 minutes before sunset).	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	Before starting Covered Activities in each work area (Road 209 alignment, Road 209 and State Highway 41 intersection, processing area, mining areas, and pond enhancement/creation areas)(Work Areas), Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities in each Work Area.	ITP Condition # 6.10	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 # 6.11	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	The Designated Representative shall notify CDFW 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	Permittee	
9	The Designated Biologist shall prepare a California tiger salamander (CTS) Relocation Plan that shall include, but not be limited to, identification of capture methods, handling methods, 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.	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities	Designated Biologist	
10	The Designated Biologist shall survey breeding sites and upland habitat within each Work Area. If any life stages of CTS are found, the Designated Biologist(s) shall relocate all life stages of CTS from the Project Area footprint in accordance with the CDFW-approved CTS Relocation Plan prepared in accordance with ITP Condition of Approval 8.1.	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities in each Work Area / Entire Project	Designated Biologist	
11	The Designated Biologist shall survey each Work Area to be disturbed for the presence of small mammal burrows. All small mammal burrows that cannot be fully avoided by at least 50 feet shall be fully excavated by hand. The Designated Biologist shall relocate any live CTS discovered during burrow excavation in accordance with the CDFW-approved CTS Relocation Plan required in ITP Condition of Approval 8.1	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities in each Work Area / Entire Project	Designated Biologist	
12	The Designated Biologist shall install permanent CTS exclusion fencing along the northern border of the Project Area and around the mine and processing area. Fencing location, material, and design shall be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fencing shall be installed after all small mammal burrows inside the planned fence zone are hand excavated by the Designated Biologist in accordance with Condition of Approval 8.3 to prevent entrapment of CTS with the Work Areas. The exclusion fence shall be equipped with one-way exits to avoid entrapment of CTS and other amphibians or reptiles. The Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. When small mammal burrows cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be hand excavated by the Designated Biologist prior to commencing trenching activities as described in ITP Condition of Approval 8.3	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
13	Permittee shall provide for the permanent protection and management of 272 acres of Habitat Management (HM) lands by completing the transfer of fee title to a CDFW-approved public agency or the recordation of a conservation easement pursuant to Government Code 65965, and calculation and deposit of the management funds (Condition of Approval 9.3). Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 82 76 months of the effective date of the ITP if Performance Security is provided pursuant to Condition 10.	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	
14	<p>CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:</p> <ul style="list-style-type: none"> i) Land acquisition costs for HM lands identified in Condition of Approval 9, estimated at \$4,400.00/acre for 272 acres: \$1,196,800.00. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements; ii) Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.5 below, estimated at \$53,238.79; iii) Interim management period funding as described in Condition of Approval 9.2.6 below, estimated at \$106,477.58; iv) Long-term management funding as described in Condition of Approval 9.3 below, estimated at \$2,478.55/acre for 272 acres: \$674,165.60. The long-term management endowment fund is estimated initially for the purpose of providing Security to ensure implementation of HM land management v) 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 9.4, estimated at \$12,000.00. 	ITP Condition #9.1	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	Prior to initiating Covered Activities, or no later than 18 months from the issuance of the ITP if Performance Security is provided pursuant to Condition 10 below, the Permittee shall transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government code sections 65966(j) and 65967(e).	ITP Condition #9.2.1	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	
16	Permittee shall obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species.	ITP Condition #9.2.2	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	
17	Permittee shall provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.	ITP Condition #9.2.3	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	
18	Permittee shall designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.	ITP Condition #9.2.4	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	Permittee shall 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 http://www.dfg.ca.gov/habcon/conplan/mitbank/); (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 #9.2.5	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	
20	Permittee shall 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, vegetation and invasive species management, and reporting. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement sub-account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition #9.2.6	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	
21	<p>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 provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.2.5. 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.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition #9.3	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
22	The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).	ITP Conditions #9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	
23	After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Fund Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and obtain written approval from CDFW of the PAR results before transferring funds to the Endowment Manager.	ITP Conditions #9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	
24	Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.	ITP Conditions #9.3.2.1	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	
25	Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment: <ul style="list-style-type: none"> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. The endowment shall be established assuming spending will not occur for the first three years after full funding. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW. 	ITP Conditions #9.3.2.2	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
26	Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Conditions #9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Performance Security is provided)	Permittee	
27	Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM Lands to CDFW.	ITP Conditions #9.4	Before commencing ground- or vegetation-disturbing activities (or within 82 76 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	<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> <ol style="list-style-type: none"> <u>Security Amount</u>. The Security shall be in the amount of \$2,042,681.97. This amount is based on the cost estimates identified in Condition 9.1 above; <u>Security Form</u>. 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; <u>Security Timeline</u>. 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; <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW; <u>Security Transmittal</u>. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other; <u>Security Drawing</u>. 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; <u>Security Release</u>. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied as evidenced by: <ul style="list-style-type: none"> 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. <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 82 76 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 82 76 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
29	The Designated Biologist shall be on-site daily when vegetation removal, topsoil removal, overburden removal, other mass grading, or other initial ground-disturbing Covered Activities occur within each Work Area. 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 the 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, relocation efforts, survey results, and monitoring activities required by the ITP. The Designated Biologist shall conduct compliance inspections a minimum of once quarterly within the Project Area during periods of inactivity and after initial clearing, grubbing, and grading (including topsoil and overburden removal) are completed.	ITP Condition # 7.3	Entire Project	Permittee	
30	The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 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. Quarterly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative. At the time of the ITP's approval, the CDFW Regional Representative is Jim Vang (Jim.Vang@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.4	Entire Project	Permittee	
31	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 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 7.4; (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; and (6) information about other Project impacts on the Covered Species.	ITP Condition # 7.5	Entire Project	Permittee	
32	The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDB) 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 # 7.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
33	The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of 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 report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	
34	The Designated Biologist shall maintain a construction-monitoring notebook on-site 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 notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
35	Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 6.8	Entire Project	Permittee	
36	Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.	ITP Condition # 6.9	Entire Project	Permittee	
37	Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP among other reasons, if additional take of Covered Species will result from Project modification.	ITP Condition # 6.12	Entire Project	Permittee	
38	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 specifically provided for in Condition 6.11 of the ITP.	ITP Condition # 6.13	Entire Project	Permittee	
39	Permittee shall immediately stop work and following 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. Any hazardous materials stored on-site during construction or operation and maintenance (O&M) shall be the minimum necessary for Project implementation and shall be stored in contained areas that preclude exposure to wildlife.	ITP Condition # 6.14	Entire Project	Permittee	
40	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
41	If any CTS are found in the Project Area during Covered Activities, all work that could potentially harm the CTS shall stop immediately until the Designated Biologist(s) can relocate the CTS following the CDFW-approved CTS Relocation Plan specified in ITP Condition of Approval 8.1. Relocation areas shall be identified by the Designated Biologist(s) prior to the start of Covered Activities, and are subject to CDFW approval in accordance with the CDFW-approved CTS Relocation Plan required in ITP Condition of Approval 8.1.	ITP Condition # 8.5	Entire Project	Permittee / Designated Biologist	
42	The Permittee shall prepare and submit to CDFW a wetland development plan (Plan) for review and written approval prior to starting any CTS breeding pond creation or enhancement activities on the HM lands. The creation and enhancement activities will occur within a temporary loss of 0.06-acres of grassland habitat impacts and a maximum 0.3-acre reduction to the area of the stockpond. Potential CTS burrows shall be avoided by at least 50 feet during all wetland creation or enhancement activities within the HM lands to prevent the collapse of the burrow openings, the burrow system, or otherwise entombing or crushing CTS. If burrows cannot be avoided, then they shall be hand excavated in accordance with ITP Condition of Approval 8.3 and any CTS uncovered during burrow excavation shall be captured and relocated in accordance with the CDFW-approved Relocation Plan as described in ITP Condition of Approval 8.1.	ITP Condition # 8.6	Entire Project	Permittee	
43	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 animal; 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 California Natural Diversity Database (CNDDDB) as per ITP Condition of Approval 7.6. This information should also be included in the Quarterly and Annual Compliance Reports.	ITP Condition # 8.7	Entire Project	Permittee / Designated Biologist	
44	The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 70 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, topsoil and overburden removal, grading, compacting, blasting, and excavation) 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. If work must continue when rain is forecast, a Designated Biologist shall survey each Work Area construction footprint before construction begins each day that rain is forecast to capture and relocate any CTS that are discovered during the surveys. Work Areas that have already been previously disturbed within the active portions of the mine may continue Covered Activities during rainfall events.	ITP Condition # 8.8	Entire Project	Designated Biologist	
45	Permittee shall strictly prohibit any work that may occur beginning 30 minutes before sunset and ending 30 minutes after sunrise when a 70 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast.	ITP Condition # 8.9	Entire Project	Permittee	
46	Permittee shall prohibit hauling of mining materials along Road 209 during the period of December 1 through February 28 each year beginning 30 minutes before sunset and ending 30 minutes after sunrise.	ITP Condition # 8.10	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential CTS breeding pools or into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall prepare an Erosion Control Plan that shall include, but not be limited to, planned proximity of soil stockpiles to waterways, description of stockpile height, description of erosion control methods and materials, and information to support efficacy of erosion control methods and materials. The Permittee shall submit the Erosion Control Plan to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Erosion Control Plan is approved in writing by CDFW.	ITP Condition # 8.11	Entire Project	Permittee	
48	Permittee shall follow the fieldwork code of practice developed by the, Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2), at all times to ensure that disease is not conveyed between work sites by the Designated Biologist(s). The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. The Designated Biologist will ensure that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 8.12	Entire Project	Permittee	
49	The Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped animals. To prevent inadvertent entrapment of Covered Species or any other animals, the Designated Biologist shall oversee the covering of all excavated, steep-walled holes or trenches 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 secured with soil staples or similar means to prevent gaps. Each morning, mid-day, the end of each day (including weekends and any other non-work days), and immediately before holes, sumps, or trenches are back-filled, the Designated Biologist shall thoroughly inspect them for Covered Species. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist immediately. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and that are between two and eight feet deep shall be covered when workers or equipment are not actively working in the excavation or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. Project workers and the Designated Biologist shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist shall capture and relocate the Covered Species as per the CTS Relocation Plan described in ITP Condition of Approval 8.1. The Designated Representative shall contact the CDFW's Regional Representative and the United States Fish and Wildlife Service Sacramento Office within one working day if an injured Covered Species is discovered at any time.	ITP Condition # 8.13	Entire Project	Permittee	
50	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, especially if the animal is inside the fenced Project Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved relocation plan required in ITP Condition of Approval 8.1.	ITP Condition # 8.14	Entire Project	Workers / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
51	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 pipe is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist and allow the animal to safely escape that section of the structure before moving and utilizing the structure.	ITP Condition # 8.15	Entire Project	Workers / Designated Biologist	
52	If a Covered Species is injured as a result of Covered Activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility that routinely evaluates and treats amphibians. Permittee shall identify the facility prior to the start of Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. Notification to CDFW shall be via telephone or e-mail, followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was taken.	ITP Condition # 8.16	Entire Project	Designated Biologist	
53	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 559-243-4014. The initial notification to CDFW shall include information regarding the location, species, number of animals taken, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two (2) 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, and any other pertinent information.	ITP Condition # 7.8	Entire Project	Permittee	
54	To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Entire Project	CDFW	
POST-CONSTRUCTION					
55	Upon completion of Covered Activities in each Work Area, Permittee shall remove from each Work Area and properly dispose of all temporary fill, stockpiled mined materials, and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.16	Post-construction	Permittee	
56	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; and (8) any other pertinent information.	ITP Condition # 7.7	Post-construction and after completion of mitigation	Permittee	