

REGIONAL CONSERVATION INVESTMENT STRATEGIES PROGRAM GUIDELINES

2022 Public Draft



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2022 Public Draft

California Department of Fish and Wildlife. 2022. *Public Draft of the Regional Conservation Investment Strategies Program Guidelines*. Fall. West Sacramento, CA.

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Section 1

Program Overview

1.1 Introduction

On September 22, 2016, Assembly Bill (AB) 2087 was signed into law and became effective on January 1, 2017, officially creating the California Department of Fish and Wildlife's (CDFW) Regional Conservation Investment Strategies Program (Program). On September 22, 2022, AB 2805 was signed into law to amend the Program which will take effect January 1, 2023.¹ These guidelines reflect the AB 2805 amendments. The Program consists of three primary components: **Regional Conservation Assessment (RCA)**, **Regional Conservation Investment Strategy (RCIS)**, and **Mitigation Credit Agreement (MCA)**.

The Program serves as a conservation planning tool and mechanism to encourage public agencies and federally recognized tribes to develop regional conservation planning documents called RCAs or RCISs. These planning documents lay out strategies for: achieving conservation **priorities**, assisting in land use planning efforts, minimizing impacts to resources while maximizing **conservation investments**, and reducing mitigation costs. These planning documents use the best available science to identify actions that will help improve California's vulnerable and declining, species populations by preserving, **establishing**, and reconnecting their habitats. RCAs and RCISs result in implementation of provide high-quality, comprehensive, cohesive, and connected regional conservation strategies. RCAs and RCISs must comply with all applicable state and local requirements and do not preempt the authority of any State or of local agencies to implement infrastructure and urban development in local general plans.²

Through use of the Program's tools, public agencies and other entities can show their commitment to protecting the natural resources in their regions, for their ecological values and for the **ecosystem services** they provide to their communities.

RCAs are assessments at the **ecoregional** scale that provide an overview of the ecological resources and ecological processes occurring within the **RCA**

¹ The 2022 Public Draft reflects all Fish and Game Code amendments from AB 2805.

² Fish & G. Code, § 1852, subdivision (c)(7) and § 1853, subdivision (c)(8)

area, and the **pressures** and **stressors** affecting those resources and processes. RCAs may provide the context for conservation strategies and identify areas with the greatest probability for long-term ecosystem conservation success.³ RCAs are optional and not required to prepare an RCIS or MCA.

An RCIS is a voluntary, non-regulatory, and non-binding comprehensive regional conservation strategy that enables the protection of the region's **focal species** and **other conservation elements**. An RCIS promotes resilience to foreseeable pressures and stressors. RCISs will include existing, available, information and analyses of **conservation elements** at a **sub-ecoregional** scale, including focal species and other conservation elements, such as wildlife corridors and linkages and other relevant natural resources within the **RCIS area**.

An RCIS establishes biological **goals, objectives**, and actions that, if implemented, will enable effective conservation within the RCIS area. RCISs identify wildlife and habitat priorities, including investments in ecological resource conservation and identification of types and generalized locations of **compensatory mitigation** needs in the RCIS area due to foreseeable impacts to species and natural resources.⁴ An RCIS may be proposed by any public agency, including CDFW, or a federally-recognized tribe, and shall be developed after consulting with all local agencies that have land use authority (i.e., each city and county) within the geographic area of the RCIS.⁵

When there is an approved RCIS, an MCA can be developed. MCAs provide advanced compensatory mitigation that supports regional conservation priorities and actions prior to project impacts. MCAs are agreements that establish mitigation **credits** to be used to fulfill compensatory mitigation requirements under any state or federal environmental law, as determined by the applicable local, state, or federal regulatory agency, including the California Endangered Species Act (CESA),⁶ CDFW's Lake and Streambed

³ Fish & G. Code, § 1851, subdivision (k)

⁴ Fish & G. Code, § 1851, subdivision (l)

⁵ Fish & G. Code, § 1852, subdivision (a)

⁶ Fish & G. Code, §§ 2080 – 2085

Alteration (LSA)⁷ Agreements, or the California Environmental Quality Act (CEQA).⁸

MCAs can also benefit public agencies and other entities by allowing the creation of **advanced mitigation** credits for infrastructure, development, and other project needs in the RCIS area. MCAs can include one or more sites and can be established for both **conservation actions** and **habitat enhancement actions** described in its overarching RCIS.

Consultation, review, and approval of RCAs, RCISs, and MCAs will be conducted through CDFW's Habitat Conservation Planning Branch (HCPB) in West Sacramento.

1.2 Purpose and Use of Guidelines

CDFW is providing these Regional Conservation Investment Strategies Program Guidelines (Guidelines) to implement Fish and Game Code sections 1850–1859.⁹ These Guidelines incorporate all relevant documents and Program guidance and apply to all RCAs, RCISs, and MCAs submitted as of the date of these Guidelines, except as otherwise stated (see Section 5.1).¹⁰ These Guidelines are intended to clarify and provide instructions or guidance related to the development, review, and approval of RCAs, RCISs, and MCAs to assist state and local public agencies, private entities, the public, and CDFW staff in implementing the Program. The Guidelines include instructions on where and how to submit individual Program documents and notices. CDFW may liberally interpret these Guidelines to accomplish the purposes of Fish and Game Code 1850-1859 and of the Program.

CDFW intends that these Guidelines will be a “living document” available on [CDFW's RCIS Program website](#).¹¹ CDFW, in coordination with interested parties, may update these Guidelines as additional relevant documentation or guidance becomes available.

CDFW intends for these Guidelines to provide **RCA proponents, RCIS proponents, and MCA sponsors** some flexibility in preparing documents to

⁷ Fish & G. Code, §§ 1600 – 1617

⁸ Pub. Resources Code, §§ 21000 – 21189

⁹ In the event of any inconsistency between Fish and Game Code sections 1850-1859 and these Guidelines, the provisions of the Fish and Game Code govern the interpretation of these Guidelines.

¹⁰ Fish & G. Code, § 1858(a)

¹¹ <https://www.wildlife.ca.gov/Conservation/Planning/Regional-Conservation>

enable achieving high-quality comprehensive, cohesive, and connected conservation outcomes based on ecological principles and the best available science. This means that the documents should include and describe representative conservation elements (e.g., declining and vulnerable native species, natural communities, **ecosystem processes**) and the pressures and stressors affecting them, to inform and facilitate a comprehensive conservation outcome for the area covered. It also means that the conservation document informs and facilitates ecosystem conservation outcomes that are ecologically integrated and sustainable, with sufficiently large and connected conservation areas and redundancies in the types of habitats conserved to help ensure that species populations and natural communities are protected against the unanticipated damages and losses to any single location. Connected means that the conservation document leads to ecosystems, natural communities, and habitats that are connected, with species populations able to disperse and move throughout their home and migratory ranges without being adversely restricted by human-made impediments. Species' ranges and natural communities should also be able to shift over time, adapting to changes in climate.

Conservation is focused on native species and their habitats, and other conservation elements. In considering which habitats and ecosystem processes to **protect** and **restore** for conserving focal species, their habitats, and other conservation elements, it is important to consider all natural communities and functions, including native natural communities, **working lands**, and nonnative communities. In some cases, working lands provide important functions and habitat for native species. In other cases, nonnative communities may provide habitat to native species and should be considered for conserving and restoring.

The Guidelines are structured as follows: the words “shall” and “must” are used for provisions that are required, while the terms “may” or “should” indicate recommendations.

CDFW strongly recommends early and ongoing coordination and collaboration with CDFW’s RCIS Program staff when developing RCAs, RCISs, and MCAs. Doing so will allow early feedback on the various components (e.g., geographic area, conservation elements, level of detail needed) and benefit in a much higher likelihood of getting early approval of the submittals.

CDFW recommends including a public or stakeholder engagement process in the development of all RCIS Program submittals (RCAs, RCISs, and MCAs).

Including a broad array of stakeholders can foster collaborative engagement with individuals and entities with relevant experience and expertise. Including a technical review team knowledgeable of ecological information and conservation needs can help to ensure that the best available scientific information is used and can help in developing conservation elements lists; goals, objectives, and actions; and gaps in scientific information. Refer to the respective RCA, RCIS, and MCA Guidelines for additional information regarding public engagement requirements when preparing those documents.

CDFW recommends early and ongoing consultation among RCA and RCIS proponents, MCA sponsors, and developers of other conservation plans in the same or adjacent geographic areas (note that RCISs cannot overlap). This will generally result in fewer major changes needed during CDFW's completeness and substantive review phases, saving the proponents or sponsors both time and money. CDFW also recommends that RCIS proponents engage with infrastructure agencies early to anticipate requirements and needs for MCA credits for infrastructure projects and to participate in the development of the RCIS.

Terms, abbreviations, and acronyms, defined in Section 2 - Standard Terminology are bolded with their first mention in each section of the Guidelines. The remainder of these Guidelines is divided into three main sections: Section 3 - Regional Conservation Assessments, Section 4 - Regional Conservation Investment Strategies, and Section 5 - Mitigation Credit Agreements.

1.3 Fees

Fish and Game Code section 1857 authorizes CDFW to collect fees or other compensation to pay for all or a portion of CDFW's costs relating to an RCA, RCIS, or MCA. The applicable Program fees must be paid in full prior to CDFW's review of any component of an RCA, RCIS, or MCA that requires fees. The fee schedule for the Program's components is posted on [CDFW's RCIS Program website](#)¹² and is incorporated into these Guidelines by this reference as if it was fully set forth herein.

¹² <https://www.wildlife.ca.gov/Conservation/Planning/Regional-Conservation>

1.4 Program Contacts

As stated above, CDFW's RCIS program is implemented through our HCPB. General inquiries and notifications of a proponent's intent to develop an RCA, RCIS, or MCA should be sent to HCPB at the [RCIS Program email address](#).¹³

Both CDFW HCPB staff and regional staff should be included in consultation early and ongoing during the development of RCAs, RCISs, and MCAs. CDFW region may be notified either by requesting region contacts from HCPB or by contacting established Habitat Conservation Planning contacts within the applicable CDFW region.

Information about the Program can be found on [CDFW's RCIS Program website](#).¹⁴ Requests to be added to CDFW's RCIS Program Notifications List should be sent to [the RCIS Program email address](#).¹³

1.5 Accessibility

CDFW follows the Web Content Accessibility Guidelines (WCAG)¹⁵ per California Government Code sections 7504¹⁶ and 11135¹⁷. Since the public draft and the approved final versions RCAs, RCISs, and MCAs must be posted on [CDFW's RCIS Program website](#),¹⁴ RCA and RCIS proponents and MCA sponsors shall provide CDFW with PDF files of the applicable documents that fully comply with the WCAG, including incorporating the four principles of WCAG: the document must be perceivable, operable, understandable, and robust to people with disabilities.

The most efficient way to develop an accessible PDF is to incorporate accessible formatting into the Word document from the start. Seven Steps to Creating an Accessible Word Document¹⁸ are as follows:

- a. Use appropriate font style and size;

¹³ rcis@wildlife.ca.gov

¹⁴ <https://www.wildlife.ca.gov/Conservation/Planning/Regional-Conservation>

¹⁵ How to Meet WCAG: https://www.w3.org/WAI/WCAG21/quickref/?currentsidebar=#col_overview&levels=aaa

¹⁶ https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=7405.

¹⁷ https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=11135

¹⁸ Seven Steps to Creating an Accessible Word Document:
<https://www.dor.ca.gov/Content/DorIncludes/documents/DisabilityAccessServices/SevenStepstoCreatinganAccessibleWorddocument05042021.pdf>

- b. Use color appropriately;
- c. Add alternative texts and captions;
- d. Specify column header rows in tables;
- e. Use meaningful hyperlink text;
- f. Use built-in formatting styles; and
- g. Use Word accessibility checker.

For guidance on compliance with these standards and for assistance with development of an accessible PDF, please refer to the following resources:

- a. WCAG requirements¹⁹
- b. Seven Steps to Creating an Accessible Word Document;²⁰
- c. U.S. Department of Health and Human Services section 508 Accessibility checklists pursuant to the Rehabilitation Act of 1973;²¹
- d. California Department of Rehabilitation Disability Access Services website.²²

¹⁹ How to Meet WCAG: https://www.w3.org/WAI/WCAG21/quickref/?currentsidebar=#col_overview&levels=aaa

²⁰ Seven Steps to Creating an Accessible Word Document:
<https://www.dor.ca.gov/Content/DorIncludes/documents/DisabilityAccessServices/SevenStepstoCreatinganAccessibleWorddocument05042021.pdf>

²¹ [U.S. Department of Health and Human Services section 508 Accessibility checklists](#)

²² [California Department of Rehabilitation Disability Access Services website](#)

Section 2 Standard Terminology

2.1 Terms, Abbreviations, Acronyms, and Definitions

Term/Acronym/ Abbreviation	Definition
ACE—Areas of Conservation Emphasis	The biodiversity analysis completed by CDFW in 2010, or the latest update of that analysis.
adaptive management and monitoring outline	A component of an RCIS that incorporates an adaptive management process that is informed by periodic monitoring of the implementation of both conservation actions and habitat enhancement actions. ²³ Adaptive management means using the results of new information gathered through a monitoring program to adjust management strategies and practices to help provide for the conservation of focal species and their habitats. A monitoring strategy is the periodic evaluation of monitoring results to assess the adequacy of implementing a conservation action or habitat enhancement action and to provide information to direct adaptive management activities to determine the status of the focal species, their habitats, or other natural resources. ²⁴
advance mitigation	Compensatory mitigation for impacts on ecological resources (species and their habitats) and other natural resources that is implemented prior to impacts occurring.
approved MCA	An MCA is deemed to be approved on the date that all signatories, including CDFW as the regulatory agency, have signed the MCA. See also “MCA establishment.”
CDFW	California Department of Fish and Wildlife

²³ Fish & G. Code, § 1856, subdivisions (b)(1) and (f)(14)

²⁴ Adapted from Fish & G. Code, § 2805, subdivisions (a) and (g)

Term/Acronym/ Abbreviation	Definition
CEHC—California Essential Habitat Connectivity Project: A Strategy for Conserving a Connected California	A statewide assessment of essential habitat connectivity completed by consultants and commissioned by CDFW and Caltrans; ²⁵ the assessment used the best available science, data sets, and spatial analysis and modeling techniques to identify large remaining blocks of intact habitat or natural landscape and model linkages between them that need to be maintained, particularly as corridors for wildlife.
CEQA	California Environmental Quality Act (California Public Resources Code, sections 21000, et seq., and Title 14 CCR, section 753, and Chapter 3, sections 15000, et seq.).
CESA	California Endangered Species Act (Fish and Game Code, sections 2050, et seq.).
CNDDDB – California Natural Diversity Database	California Natural Diversity Database is an inventory of the status and locations of rare plants and animals in California.
compensatory mitigation	Actions taken to fulfill, in whole or in part, mitigation requirements under state or federal law, including regulatory permits, or a court mandate. ²⁶
conservation action	An action to preserve or to restore ecological resources, including habitat, natural communities, ecological processes, and wildlife corridors, to protect those resources permanently, and to provide for their perpetual management, so as to help to achieve one or more biological goals and objectives for one or more focal species. Conservation actions may include, but are not limited to, actions to offset impacts to focal species. ²⁷ Compare to “habitat enhancement action.”
conservation easement (CE)	A perpetual conservation easement that complies with Chapter 4 (commencing with section 815) of Title 2 of Part 2 of Division 2 of the Civil Code. Notwithstanding section 815.1 of the Civil Code, for purposes of RCISs and MCAs, the term conservation easement is limited to easements and does not include deed restrictions or restrictive covenants.

²⁵ <https://www.wildlife.ca.gov/conservation/planning/connectivity/CEHC>

²⁶ Fish & G. Code, § 1851, subdivision (c)

²⁷ Fish & G. Code, § 1851, subdivision (d)

Term/Acronym/ Abbreviation	Definition
conservation easement (CE) grantee	The entity that holds the conservation easement for the MCA site. The grantee must be eligible to hold a conservation easement pursuant to California Civil Code § 815.3, authorized to hold the conservation easement by Government Code §§ 65966 and 65967, and approved by CDFW.
conservation element	An element that is identified and analyzed in an RCIS that will benefit from conservation actions and habitat enhancement actions set forth in the RCIS. Conservation elements include focal species and other conservation elements. See "other conservation element."
conservation investment	Conservation actions or habitat enhancement actions that are implemented under an approved RCIS, but the implementer does not create credits through an MCA with CDFW. Conservation investments are typically funded by public agencies and nonprofit or other philanthropic organizations.
Construction Security	The financial security required by the MCA, in a form acceptable to CDFW's Office of General Counsel, to be provided by the MCA Sponsor to guarantee the completion of construction and planting intended to establish habitat through creation, enhancement or restoration within the MCA site in accordance with the Development Plan.
Compliance Security	The financial security required by the MCA, in a form acceptable to CDFW's Office of General Counsel, to be provided by the MCA Sponsor to guarantee their obligations under this MCA through MCA closure, including any remedial actions needed.
create, creation	A manipulation of the physical, chemical, or biological characteristics of a site to develop ecological value and ecosystem processes that did not previously exist at the site. Creation results in a gain in ecological resource area and function. Credits for creation may include permanently protected land. See "establishment." Compare to "enhancement," "preservation," and "restoration."
credit	The unit of measure representing the accrual, attainment, or protection of focal species, non-focal species, or other conservation elements on the MCA site.

Term/Acronym/ Abbreviation	Definition
credit release	An action by CDFW over specified credits created, pursuant to the MCA, that makes the credits available for sale or use. Credits are released as set forth in the credit release schedule of the MCA after meeting the performance-based milestones and the performance standards associated with the release.
credit sale	<p>The sale of credits by the MCA sponsor to another entity through a credit purchase as noted in a Credit Receipt.</p> <p>Purchase and use of credits does not relieve a permittee from its underlying obligation to ensure that the mitigation is completed, nor does it transfer liability for completion of the mitigation to the MCA sponsor.</p> <p>Credits may only be sold to or from the MCA sponsor. Credits may be sold and used at the same time. But credits may also be sold prior to regulatory agency approval of their use for future project(s), which may have previously or in other programs been referred to as “advance credit purchase”, “credit sale without transfer” or “bulk credit purchase”. Only released credits may be sold. See also “use of credits.”</p>
credit use	The use, or application of credits to a permit or project in order to satisfy compensatory mitigation requirements. Considered ‘transfer of credits’ in conservation and mitigation banking. Compare to “credit sale.”
CWHR—California Wildlife Habitat Relationships	System that contains the life history, geographic range, habitat relationships, and management information for over 700 regularly occurring species of amphibians, reptiles, birds, and mammals in the state; allows users to produce queries to generate lists of species by geographic location or habitat type and provides information on expert opinion–based habitat suitability ranks for each species within each habitat type. ²⁸
Development Plan	The document attached to the MCA Template as an exhibit that is the overall plan governing construction and habitat establishment, restoration and enhancement activities. All MCAs with ground disturbing activities are required to submit Development Plan in order to establish credits.

²⁸ <https://wildlife.ca.gov/conservation/planning/connectivity/CEHC>

Term/Acronym/ Abbreviation	Definition
draft NCCP	A substantially complete draft of a Natural Community Conservation Plan (NCCP) that is released after January 1, 2016, to the general public, plan participants, and CDFW. ²⁹
ecoregion, sub-ecoregion	As used in this document, ecoregion means a U.S. Department of Agriculture (USDA) section and sub-ecoregion means a portion of the USDA section or USGS Hydrological Units (assigned hydrological unit codes; HUC). USDA describes four geographic levels of detail in a hierarchy of regional ecosystems including domains, divisions, provinces, and sections. Sections are subdivisions of provinces based on major terrain features, such as a desert, plateau, valley, mountain range, or a combination thereof. May also be referred to as 'regional level.'
ecosystem process	The interactions between physical, chemical, and biological components of the ecosystem, such as dynamic river meander, floodplain dynamism, tidal flux, bank erosion, and other processes necessary to sustain the ecosystem and the species that depend on it. May also be referred to as 'ecosystem function.'
ecosystem services	The beneficial outcomes to humans from the natural environment such as supplying of oxygen; sequestering of carbon; moderating climate change effects; supporting the food chain; harvesting of animals or plants; providing clean water; recharging groundwater; abating storm, fire, and flood damage; pollinating and fertilizing for agriculture; and providing scenic views.

²⁹ Fish & G. Code, § 1851, subdivision (a)

Term/Acronym/ Abbreviation	Definition
endowment fund	A financial account held in trust for the benefit of the long-term stewardship of the MCA site. The endowment fund shall be maintained and managed in perpetuity in accordance with Government Code §§ 65965-69568, Probate Code §§ 18501-18510, the MCA, and, to the extent they do not conflict with the foregoing, the endowment agreement. The endowment fund shall be invested in accordance with an investment policy statement that is designed to generate earnings and appreciate in value over the long-term. The amount of funds, and deposits are included in the Endowment Fund Analysis exhibit. The endowment fund shall be used to pay for the perpetual management, maintenance, monitoring, and reporting pursuant to the Long-term Management and Monitoring Plan. The term "endowment fund" as used in this MCA shall include the endowment deposits and all interest, dividends, gains, other earnings, additions and appreciation.
endowment holder	An entity qualified to hold the endowment pursuant to Government Code §§ 65965-65968. See "endowment fund."
enhance, enhancement	A manipulation of the physical, chemical, or biological characteristics to heighten, intensify, or improve an existing resource. Enhancement results in a gain in ecological function but may also lead to a decline in other ecological functions. Enhancement does not result in a gain in ecological resource area. Credits for enhancement may include permanently protected land. See "establishment." Compare to "creation," "preservation," and "restoration."
established bank	A conservation or mitigation bank (bank) is considered established when the bank has met the bank establishment date criteria required in the banking program and the bank may begin selling or transferring credits. Also referred to as an 'approved conservation and mitigation bank'.
establish, establishment	The manipulation of the physical, chemical, or biological characteristics to develop or improve the ecological value and/or ecosystem processes on a site. Establishment may include creation, restoration and/or enhancement. Credits for establishment may include permanently protected land. See "creation," "enhancement," and "restoration." Compare to "preservation."

Term/Acronym/ Abbreviation	Definition
extraordinary circumstances	An event or circumstance that has a material and detrimental impact on the MCA site or on the ability of MCA sponsor to attain performance standards and: (1) was neither foreseen nor foreseeable by the MCA sponsor, property owner, or CDFW; and (2) neither the MCA sponsor nor the property owner (or anyone acting on behalf or under the control of either of them) caused or could have prevented; and (3) prevents the MCA sponsor or property owner from achieving an objective or undertaking an action required under the MCA. Extraordinary circumstances exclude mere economic hardship.
focal species	<p>Sensitive species identified and analyzed within an RCIS that will benefit from conservation actions and/or habitat enhancement actions set forth in the RCIS.³⁰</p> <p>In practice, focal species have also included common species beyond sensitive species that would benefit from conservation actions and habitat enhancement actions. See also, "sensitive species" and "non-focal species".</p>
goal	A broad, guiding principle that describes a desired future condition for a focal species or other conservation element. Each goal is supported by one or more objectives with one or more actions. May also be referred to as 'conservation goal' or 'biological goal.'
habitat enhancement action	<p>An action identified in an RCIS to improve the quality of wildlife habitat, or to address risks or stressors to wildlife, that has long-term durability but does not involve land acquisition or the permanent protection of habitat, such as improving in-stream flows to benefit fish species, enhancing habitat connectivity, or invasive species control or eradication.³¹</p> <p>Long-term durability shall be through an enforceable legal instrument, such as a deed restriction, contract, or other type of non-perpetual easement.</p> <p>Compare to "conservation action".</p>

³⁰ Fish & G. Code, § 1851, subdivision (f)

³¹ Fish & G. Code, § 1851, subdivision (g)

Term/Acronym/ Abbreviation	Definition
HCP – Habitat Conservation Plan	Habitat Conservation Plan. A federal planning document that is required as part of an application for an incidental take permit under the federal Endangered Species Act. HCPs describe the anticipated effects of the proposed taking, how those impacts will be minimized or mitigated, and how the HCP is to be funded.
HUC	Hydrologic Unit Code
implementing entity	The organization designated in an NCCP and associated implementing agreement that is responsible for implementing the NCCP. Implementing entities can be non-profit organizations, joint-powers authorities, local governments (such as cities or counties), or others.
Interim Management and Monitoring Plan	The document attached to the MCA Template as an exhibit that describes the adaptive management, monitoring, reporting, and other activities to be implemented by the MCA sponsor during the interim management period.
interim management period	The period between MCA establishment and the point where performance-based milestones and performance standards have been met and the third anniversary of the full funding of the endowment amount has occurred.
Interim Management Security	The financial security required by the MCA, in a form acceptable to CDFW's Office of General Counsel, to be provided by the MCA sponsor, when credits are released prior to fully funding the endowment for three years. This security is based on the estimated cost to implement three years of interim management (as described in the Interim Management and Monitoring Plan).
LOC – letter of credit	A guarantee, issued by a bank, that serves as financial security to ensure performance of the MCA sponsor's obligations under the MCA and that allows CDFW, as the beneficiary of the letter of credit, to draw upon the security if CDFW determines, in its sole and absolute discretion, that the MCA sponsor or property owner is in default with respect to one or more of the obligations of the MCA.

Term/Acronym/ Abbreviation	Definition
Long-term Management and Monitoring Plan	The document attached to the MCA Template as an exhibit that provides measures intended to ensure the MCA site is managed, monitored, and maintained during the long-term management period to conserve and protect the focal species, non-focal species and/or other conservation elements covered by the MCA in perpetuity.
long-term management period	The period beginning upon conclusion of the interim management period and continuing in perpetuity, during which the MCA site is to be managed, monitored, and maintained pursuant to the Long-term Management and Monitoring Plan.
LSA Agreement	A Lake and Streambed Alteration Agreement issued pursuant to Fish and Game Code sections 1600, et seq.
MCA—Mitigation Credit Agreement	An agreement between CDFW and the MCA sponsor to implement one or more conservation actions and/or habitat enhancement actions to create credits. An MCA includes the terms and conditions under which the MCA sponsor may use or sell credits in accordance with the MCA that have been released by CDFW. To enter into an MCA with CDFW, the MCA sponsor shall submit a draft MCA package to CDFW for its review, revision, approval, and establishment. An MCA may only be created within an area where an RCIS has been approved.
MCA closure	MCA closure shall occur upon written approval by CDFW, and all requirements described in the MCA Site Closure Plan have been met. At MCA closure no further credit sale, or returns shall occur.
MCA establishment	MCA establishment shall occur upon written approval by CDFW, when all MCA establishment requirements described in the MCA have been met. The sale or use of credits may begin only after MCA establishment.
MCA site	The geographic location upon which conservation actions or habitat enhancement actions are conducted in order to create credits under an MCA. An MCA site may be composed of multiple APNs and multiple non-contiguous sites.
MCA package	MCA package includes the MCA Template (Appendix A to the RCIS Program Guidelines), all of the template's exhibits, the MCA Checklist, fees, and any necessary letters.
MCA sponsor	The person(s) or entities responsible for preparing, establishing, and operating an MCA or framework.

Term/Acronym/ Abbreviation	Definition
metric	The ecologically-based units of area and habitat quality by which the net ecological benefit can be measured.
NCCP—Natural Community Conservation Plan	A plan developed pursuant to the Natural Community Conservation Planning Act (Fish and Game Code sections 2800, et seq.) which identifies and provides for the regional protection of plants, animals, and their habitats, while allowing compatible and appropriate economic activity. An NCCP allows for take of species listed under CESA, fully protected species, as well as other, non-listed species.
NEPA	National Environmental Policy Act (42 U.S. Code, sections 4321, et seq.)
NMFS	National Marine Fisheries Service, or the National Oceanic and Atmospheric Administration (NOAA) Fisheries, is the federal agency responsible for the stewardship of the nation's living marine resources and their habitat.
non-focal species	Non-focal species are species that are associated with a focal species or other conservation element in an RCIS due to shared ecological needs and requirements and could benefit from implementation of conservation actions and or habitat enhancement actions for the associated focal species or other conservation element. Non-focal species do not have their own unique goals, objectives, actions, and priorities. May also be referred to as 'associated species.' See "focal species."
objective	A concise statement of a target outcome for a focal species or other conservation element. Objectives must be measurable by using standard ecologically based metrics that includes both area and quality of habitat.
other conservation element	The important resources and processes within the RCIS area, including major and unique natural communities, habitat, habitat connectivity, ecosystem processes, and water resources. Other conservation elements are not species. See "conservation element."
performance-based milestones	Specifically identified steps in the implementation of a conservation action or habitat enhancement action, such as site protection, initiating implementation, completing implementation, or achieving performance standards. ³² See "performance standards."

³² Fish & G. Code, § 1851, subdivision (h)

Term/Acronym/ Abbreviation	Definition
Performance Security	The financial security required by the MCA, to be provided by the MCA sponsor, in a form acceptable to CDFW's Office of General Counsel, to guarantee the MCA sponsor's obligations to meet performance-based milestones and performance standards in the MCA, Development Plan, and the Interim Management Plan.
performance standards	Observable or measurable physical or biological attributes that are used to determine if a conservation action or habitat enhancement action has met its objectives. ³³ May have previously or in other programs been referred to as 'success criteria.' "See performance-based milestones."
permanently protect	Permanent protection means both: (1) recording a conservation easement, in a form approved in advance in writing by CDFW, or establishing perpetual protection of land in a manner consistent with an overlapping draft or approved NCCP that prevents development, prohibits inconsistent uses, and ensures that habitat for focal species is maintained, and (2) providing secure, perpetual funding for management of the land, monitoring, legal enforcement, and defense. ³⁴
preserve, preservation	The removal of a threat to, or preventing the decline of, ecological resources by an action in or near those ecological resources. Preservation includes activities commonly associated with the protection and maintenance of ecological resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions. Credits for preservation must include permanently protected land. Compare to "creation," "enhancement," "establishment," and "restoration."
pressure	A pressure is an anthropogenic (human-induced) or natural driver that could result in changing the ecological conditions of a focal species or other conservation element. Pressures can be positive or negative depending on intensity, timing, and duration. Negative or positive, the influence of a pressure to the target focal species or other conservation elements is likely to be significant. Compare to "stressor".

³³ Fish & G. Code, § 1851, subsection (i)

³⁴ Fish & G. Code, § 1851, subdivision (j)

Term/Acronym/ Abbreviation	Definition
priority	A list of actions (e.g., land acquisition, preservation, or habitat establishment) or locations that are identified in an RCIS as important for benefiting and contributing to the conservation of focal species and other conservation elements within an RCIS area. May also be referred to as 'conservation priority' or 'biological priority.'
Property Assessment and Warranty	The written property evaluation that provides a summary and explanation of each recorded and unrecorded lien or encumbrance on, or that has interest in, the MCA site, including each exception listed in the preliminary title report covering the MCA site.
RCA—Regional Conservation Assessment	Information and analyses that document the important species, ecosystems, ecosystem processes, protected areas, and linkages within an ecoregion to provide the appropriate context for nonbinding, voluntary conservation strategies and actions. Those assessments include information for the identification of areas with the greatest probability for long-term ecosystem conservation success incorporating co-benefits of ecosystem services, such as the benefits of carbon cycling, water, and agricultural lands. An RCA may be used to provide context at an ecoregional or sub-ecoregional scale to assist with the development of an RCIS. An RCA is nonbinding, voluntary, and does not create, modify, or impose regulatory requirements or standards, regulate the use of land, establish land use designations or affect the land use authority of, or the exercise of discretion by, any public agency. The preparation of an RCA is voluntary. ³⁵
RCA or RCIS area	The geographic area encompassed by an RCA or RCIS.
RCA or RCIS proponent	The public agency or group of public agencies developing an RCA or RCIS for review and approval by CDFW and who is responsible for the technical and administrative updates of an RCA or RCIS.

³⁵ Fish & G. Code, § 1851, subdivision (k)

Term/Acronym/ Abbreviation	Definition
RCIS—Regional Conservation Investment Strategy	Information and analyses to inform nonbinding and voluntary conservation actions and habitat enhancement actions that would advance the conservation of focal species, habitat, and other natural resources, including other conservation elements and non-focal species, and to provide nonbinding, voluntary guidance for the identification of wildlife and habitat conservation priorities, investments in ecological resource conservation, or identification of locations for compensatory mitigation for impacts to species and natural resources. RCISs are intended to provide scientific information for the consideration of public agencies, are voluntary, and do not create, modify, or impose regulatory requirements or standards, regulate the use of land, establish land use designations, or affect the land use authority of or exercise of discretion by, any public agency. The preparation and use of regional conservation investment strategies for this guidance is voluntary. ³⁶
recovery plan	A document published by USFWS, NMFS, or CDFW that describes the status of a listed species and the actions necessary to recover the species so that it can be removed from either the federal or the California list of endangered or threatened species.
remedial action	Any measures needed to remedy any failure to achieve the performance standards or any injury or adverse impact to the MCA site.
restore, restoration	A manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural and historic functions to a former or degraded resource. Restoration results in a gain in resource area. Credits for restoration may include permanently protected land. See “establishment.” Compare with “creation,” “enhancement,” and “preservation.”
sensitive species	Any special-status species identified by a state or federal agency. ³⁷ See also, “focal species” and “non-focal species.”
service area	The geographic area(s) which impacts to focal species, non-focal species, and/or other conservation elements covered by the MCA may be mitigated by credits from the MCA.
SCV	Survey of California Vegetation

³⁶ Fish & G. Code, § 1851, subdivision (l)

³⁷ Fish & G. Code, § 1851, subdivision (n)

Term/Acronym/ Abbreviation	Definition
SGCN – species of greatest conservation need	Species of greatest conservation need are selected, for each state, to indicate the status of biological diversity in the state, specifying at-risk species that have the greatest need for conservation. The latest SGCN list for the state of California is found in the California State Wildlife Action Plan 2015 Update, or most current version.
SSC – species of special concern	Species of special concern is an administrative designation and carries no formal legal status. The intent of designating SSCs is to: 1) focus attention on animals considered potentially at conservation risk by CDFW, other state, local and federal governmental entities, regulators, land managers, planners, consulting biologists, and others; 2) stimulate research on poorly known species; and 3) achieve conservation and recovery of these animals before they meet CESA criteria for listing as threatened or endangered.
stressor	Stressor is a degraded ecological condition of a focal species or other conservation element that resulted directly or indirectly from a negative impact of pressures, such as habitat fragmentation. Compare to “pressure”.
sub-ecoregion	See “ecoregion, sub-ecoregion.”
SWAP– California State Wildlife Action Plan	The California State Wildlife Action Plan (SWAP) is a CDFW publication developed to address the highest conservation priorities of the state, providing a blueprint for actions necessary to sustain the integrity of California’s diverse ecosystems. Companion plans are considered part of the SWAP.
USDA – U.S. Department of Agriculture	The federal agency providing leadership on food, agriculture, natural resources, rural development, nutrition, and related issues based on public policy, the best available science, and effective management.
USFWS – U.S. Fish and Wildlife Service	The A federal agency responsible for conserving, protecting, and enhancing fish, wildlife and plants and their habitats.
USGS – U.S. Geological Survey	The federal agency that provides science about natural hazards and natural resources.
VegCAMP – Vegetation Classification and Mapping Program	The CDFW Vegetation Classification and Mapping Program that develops and maintains California’s expression of the National Vegetation Classification System.
watershed	An area or ridge of land that contains a common set of streams and rivers that all drain into one location such as a marsh, stream, river, lake, or ocean.

Term/Acronym/ Abbreviation	Definition
working land	An area where people live and work in a way that allows ecosystems or ecosystem functions to be sustained (e.g., farms, ranches). Human activities are done in a way that minimizes disturbance on native plants and animals while still retaining the working nature of the landscape.

Section 3

Regional Conservation Assessments

3.1 Introduction

This section provides an overview of the required information to develop a **Regional Conservation Assessment (RCA)**, an optional tool that can provide valuable context for **Regional Conservation Investment Strategies (RCISs)**. The California Department of Fish and Wildlife (CDFW) can approve an RCA. An RCA is not required for submitting an RCIS to CDFW for review and approval.³⁸ If an RCA that has been approved by CDFW encompasses or overlaps with the area of a proposed RCIS, the RCIS shall explain how and to what extent it has incorporated the RCA information and analysis.³⁹

At an **ecoregional** scale, RCAs will identify areas with the greatest probability for long-term ecosystem conservation success with co-benefits of **ecosystem services** such as carbon sequestration, protection against flood damage and other risks, support of the food chain, and agricultural benefits, water quality, and scenic views. An RCA includes information and analyses that document species, ecosystems, **ecosystem processes**, protected and conserved lands, and wildlife corridors and linkages within an ecoregion. RCAs are expected to conform to ecoregional geographic areas.⁴⁰ RCAs will serve as a valuable tool for assessing conservation values in an ecoregional area.

Using existing, readily available geospatial information for species, the distribution of natural communities, standard vegetation classifications, and other standardized data, RCAs will identify and summarize relevant⁴¹ regional conservation values, **pressures**, and **stressors** including, but not limited to, conservation areas, habitat connectivity values, and climate change vulnerability. The RCA will consider existing conservation plans such as the current version of the **California State Wildlife Action Plan (SWAP)** and approved or **draft Natural Community Conservation Plans (NCCPs)**.

³⁸ Fish & G. Code, § 1853, subdivision (a)

³⁹ Fish & G. Code, § 1853, subdivision (b)

⁴⁰ Fish & G. Code, § 1851, subdivision (k)

⁴¹ Relevance pertains to identifying the conservation values, pressures, and stressors that can help determine in an RCIS achievable goals and objectives for sustaining focal species and their habitats and other conservation elements.

Approved RCAs may be used to provide context at an ecoregional scale to assist with the development of subsequent, finer-scale regional RCISs and **Mitigation Credit Agreements (MCAs)**.

RCAs shall include provisions ensuring compliance with all applicable state and local requirements. As a non-regulatory document, an RCA cannot preempt the authority of local agencies to implement infrastructure and urban development in local general plans. An RCA shall not create, modify, or impose regulatory requirements or standards, nor regulate the use of land, establish land use designations, or affect the land use authority or the exercise of discretion by any public agency.⁴² An RCA may be proposed by CDFW or any other public agency.⁴³ The public agency proposing and developing the RCA shall notify CDFW of its intent to develop an RCA by sending an email to the [RCIS Program email address](#).⁴⁴

As stated in Section 1.2, the terms “shall” and “must” are used to indicate requirements, while the terms “should” and “may” indicate recommendations. See Section 1.2 for recommendations for collaboration and coordination during development of the RCA.

3.2 Required Components of an RCA

The RCA shall identify and summarize the species, ecosystems, ecosystem processes, protected areas, conservation areas, and habitat connectivity relevant to the conservation assessment. It shall also identify and summarize the relevant regional pressures and stressors, including climate change vulnerability. An RCA shall be prepared using information from the current version of SWAP (and the companion plans), approved NCCPs⁴⁵ that overlap the RCA, BIOS,⁴⁶ approved RCISs that overlap with the RCA, and other information available from CDFW.

Data availability, currency, and quality vary throughout the state. An RCA shall use the most current, detailed, and accurate data and information that is consistent across the **RCA area**. An RCA shall use the best available

⁴² Fish & G. Code, § 1853, subdivision (c)(8)

⁴³ Fish & G. Code, § 1853, subdivision (a)

⁴⁴ rcis@wildlife.ca.gov

⁴⁵ <https://www.wildlife.ca.gov/Conservation/Planning/NCCP/Plans>

⁴⁶ BIOS is CDFW's data catalogue of spatial data, including other species observation, distribution, and habitat datasets. Available: <https://www.wildlife.ca.gov/Data/BIOS>.

scientific information including, but not limited to, peer-reviewed literature and datasets identified in this section. A comprehensive map or maps of elements included in the assessment is preferred but not required.

3.2.1 Description of the RCA Area

The RCA shall include a concise description of: 1) the RCA's geographic area; 2) the rationale for why it was selected; and 3) the surrounding ecoregion(s) and any adjacent protected habitat areas or linkages that provide relevant context and rationale for the RCA's development.

The RCA shall use the following ecoregional classifications for terrestrial and aquatic data to enable and promote consistency among RCAs throughout California:

- a. USDA Ecoregion sections — one or more U.S. Department of Agriculture (USDA) ecoregion sections.⁴⁷
- b. U.S. Geological Survey (USGS) Hydrologic Unit Codes (HUCs) — four-digit (HUC-4) or eight-digit (HUC-8) units.⁴⁸

3.2.2 Species and Natural Communities Information

The RCA shall identify the best available scientific information and analyses, including geospatial information regarding the distribution of species and natural communities.⁴⁹

The RCA must use standard or prevalent vegetation classifications to enable and promote consistency among RCAs throughout California.⁵⁰ The standard vegetation classification system for California is CDFW's Natural Communities

⁴⁷ Goudey, C.B., and D.W. Smith, eds. 1994. Ecoregions California07_3. McClellan, CA. Remote Sensing Lab. Updated with ECOMAP 2007: Cleland, D.T.; Freeouf, J.A.; Keys, J.E., Jr.; Nowacki, G.J.; Carpenter, C; McNab, W.H. 2007. Ecological Subregions: Sections and Subsections of the Conterminous United States [1:3,500,000] [CD-ROM]. Sloan, A.M., cartog. Gen. Tech. Report WO-76. Washington, DC: U.S. Department of Agriculture, Forest Service. Miles and Goudey 1997. *Ecological subregions of California*. Technical Report R5-EM-TP-005, USDA Forest Service, Pacific Southwest Region, San Francisco, CA.

⁴⁸ The United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS), the United States Geological Survey (USGS), and the Environmental Protection Agency (EPA). The Watershed Boundary Dataset (WBD) was created from a variety of sources from each state and aggregated into a standard national layer for use in strategic planning and accountability. Available: <http://datagateway.nrcs.usda.gov>

⁴⁹ Fish & G. Code, § 1853, subdivision (c)(2)

⁵⁰ Fish & G. Code, § 1853, subdivision (c)(4)

List,⁵¹ which is based on A Manual of California Vegetation, online⁵² and is the California expression of the U.S. National Vegetation Classification.⁵³ CDFW's Natural Community List is developed and maintained by CDFW's **Vegetation Classification and Mapping Program (VegCAMP)**⁵⁴ and supersedes all other lists of terrestrial natural communities and vegetation types previously developed for the **California Natural Diversity Database (CNDDDB)**.⁵⁵

The RCA shall include lists of rare natural communities or other high-priority natural communities⁵⁶ that occur within the RCA area. Information on the distribution and mapped locations of rare or other high-priority natural communities is available through, but not limited to, Survey of California Vegetation (SCV) vegetation maps and survey points, the CNDDDB program, and the **Areas of Conservation Emphasis (ACE)** Significant Habitats dataset.

The list is updated one to two times per years to incorporate updated vegetation community information and rarity ranks. To ensure the RCA is using the current list, **RCA proponents** shall check for the most recent version of the lists, associated vegetation descriptions, and any recent updates specific to the RCA area. Any vegetation information, including maps, developed for an RCA shall use the VegCAMP classification system and follow SCV standards.⁵⁷ If the RCA area has not been mapped to SCV standards, contact VegCAMP to determine the best readily available alternative vegetation map and associated descriptions.⁵⁸

If another prevalent vegetation classification is commonly used in the RCA area, the RCA proponent may choose to use it as the primary vegetation classification for the RCA. For example, if an approved NCCP overlaps the RCA, the RCA proponent may use that NCCP's vegetation classification system. However, if the RCA incorporates a vegetation classification that differs from the Manual of California Vegetation, online, the RCA shall include

⁵¹ California Department of Fish and Game. *List of Vegetation Alliances and Associations*. Vegetation Classification and Mapping Program. Sacramento, CA. Available: <https://www.wildlife.ca.gov/Data/VegCAMP/Natural-Communities/List>.

⁵² <https://vegetation.cnps.org/search?>

⁵³ https://www.fgdc.gov/standards/projects/FGDC-standards-projects/vegetation/NVCS_V2_FINAL_2008-02.pdf

⁵⁴ <https://www.wildlife.ca.gov/Data/VegCAMP>

⁵⁵ <https://www.wildlife.ca.gov/Data/CNDDDB>

⁵⁶ <https://www.wildlife.ca.gov/Data/VegCAMP/Natural-Communities>

⁵⁷ <https://www.wildlife.ca.gov/Data/VegCAMP/Mapping-Standards>

⁵⁸ <https://www.wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Other-Info>

a crosswalk between the classifications to help ensure consistency between the RCAs throughout California.

RCA proponents may add or emphasize species or taxonomic groups and their distribution information if those species or taxonomic groups add additional conservation values in the RCA area that are not already considered in the ACE datasets as indicated in Section 3.2.3 - Biodiversity Information and Analysis. RCA proponents shall indicate the reason for adding or emphasizing each of those species or taxonomic groups. RCA proponents should consider the information in the following list, as practicable.

- a. Covered species information from NCCPs that overlap the RCA area.
- b. When available, existing species or habitat distribution models published by CDFW or in peer-reviewed literature. If new models are developed for an RCA, the RCIS shall include a description of methods and data sources used and shall report model confidence as outlined in NatureServe's Habitat Model Standard.⁵⁹ The assessment of model confidence may include both statistical measures and species expert review, and the results of the model confidence assessment shall support use of the model in the RCA (refer to the Habitat Model Standard, Section 3.3 – Assignment of Confidence Scores).
- c. Lists of wildlife species found in the RCA area using the Complete List of Amphibian, Reptile, Bird, and Mammal Species in California;⁶⁰ the list of **Species of Greatest Conservation Need (SGCN)**⁶¹ as defined in the current version of SWAP; and lists of special-status species. Special-status species lists may include plant and animal species that are listed in the following sources: under the federal Endangered Species Act or California Endangered Species Act (CESA),⁶² CDFW animal **Species of Special**

⁵⁹ NatureServe. 2021. A species habitat model standard for the NatureServe Network. NatureServe: Arlington, VA. Available: Link will be added here prior to finalizing the Guidelines.

⁶⁰ California Department of Fish and Wildlife, California Wildlife Habitat Relationships Program. May 2016. *Complete List of Amphibian, Reptile, Bird and Mammal Species in California*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=87155&inline>.

⁶¹ California Department of Fish and Wildlife. 2015. *California State Wildlife Action Plan, 2015 Update: A Conservation Legacy for Californians Appendix C: Species of Greatest Conservation Need*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109224&inline>.

⁶² California Department of Fish and Wildlife, Biogeographic Data Branch. October 2017. *State & Federally Listed Endangered & Threatened Animals of California*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405&inline>. California Department of Fish and Wildlife, Biogeographic Data Branch. October 2017. *State & Federally Listed Endangered, Threatened, and Rare Plants of California*. Available: <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109390&inline>.

Concern (SSC),⁶³ California Fully Protected Animals,⁶⁴ and additional special-status species identified by the CNDDDB special plants and special animal lists.⁶⁵ In addition, lists of terrestrial vertebrates can be generated by queries of the **California Wildlife Habitat Relationships (CWHR).**⁶⁶ The CWHR contains life history, geographic range, and habitat suitability information for regularly occurring species of amphibians, reptiles, birds, and mammals in the state. The CWHR allows users to produce queries to generate lists of species by geographic location (e.g., ecoregion, HUC) and/or by habitat type, and provides information on expert opinion-based habitat suitability ranks for each species within each habitat type. Lists of species can also be generated by ACE hexagon within the ACE viewer.⁶⁷

- d. Geospatial information on special-status species and their habitats in the RCA area. Reported information on the distribution of many of these species is available through, but not limited to, the CNDDDB program and BIOS map viewer from CDFW's Biogeographic Data Branch.⁶⁸ The CNDDDB is an inventory of GIS-mapped occurrence locations of special species in California. The BIOS spatial data catalog⁶⁹ includes additional geospatial information on the distributions of wildlife species (e.g., occurrence location data and species distribution models).

3.2.3 Biodiversity Information and Analysis

The RCA shall identify and summarize areas of high biological value within an RCA area using information from the most recent version of ACE.⁷⁰ ACE is a compilation and analysis of the best available statewide spatial information on California's biological richness, including species diversity, rarity, and endemism. In addition to ACE, RCA proponents may use other local or

⁶³ <https://www.wildlife.ca.gov/Conservation/SSC>

⁶⁴ http://www.dfg.ca.gov/wildlife/nongame/t_e_spp/fully_pro.html

⁶⁵ California Department of Fish and Wildlife, California Natural Diversity Database (CNDDDB). October 2017. *Special Vascular Plants, Bryophytes, and Lichens List*. Available: <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>. California Department of Fish and Wildlife, California Natural Diversity Database (CNDDDB). October 2017. *Special Animals List*. Available: <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406&inline>.

⁶⁶ <https://www.wildlife.ca.gov/Data/CWHR>

⁶⁷ <https://apps.wildlife.ca.gov/ace/> (ds2700, ds2740)

⁶⁸ <https://www.wildlife.ca.gov/Explore/Organization/BDB>

⁶⁹ The BIOS spatial data catalog can be searched by species name or searched spatially by location.

⁷⁰ Fish & G. Code, § 1853, subdivision (c)(1)(B); <https://www.wildlife.ca.gov/Data/Analysis/ACE>

regional resources, as available. The ACE datasets identify and map the following relative to biodiversity:

- a. Native species richness, which represents overall native diversity of all species in the state, both common and rare;
- b. Rare species richness, which represents diversity of rare species;
- c. Irreplaceability, which is a weighted measure of endemism.

ACE also provides a list of the species by hexagon that were used to develop the richness metrics listed above.

3.2.4 Habitat Connectivity Values

The RCA shall identify and summarize existing analyses designed to identify areas for habitat connectivity.⁷¹ Habitat connectivity is important to maintaining viable ecosystem processes, healthy wildlife populations, and gene flow. Habitat connectivity is a critical consideration when evaluating the location and association of protected lands within an RCA, and when determining how to provide for wildlife movement at different scales. Wildlife movement entails searches for food, shelter, and mates; dispersal as young find new territories; seasonal migration; and shifts to new ranges, when feasible, in response to climate change. Habitat connectivity and wildlife movement are also important to maintaining healthy gene flow of plants through pollination and seed dispersal. RCA proponents shall use habitat connectivity data and information including, but not limited to:

- a. The **California Essential Habitat Connectivity Project (CEHC)**,⁷² a statewide assessment of essential habitat connectivity. The project identified large remaining blocks of intact, contiguous natural habitat (natural landscape blocks) and modeled linkages (essential connectivity areas) between them to best maintain habitat connectivity across the landscape. CEHC data is included in ACE.
 - Natural Landscape Blocks identify remaining intact lands across the state, independent of ownership. These lands contribute to habitat connectivity and are expected to have high conservation and climate resilience value because of their size, intactness, and connectedness with other natural habitats. Although the CEHC only used large natural landscape blocks (greater than 2,000 acres) due to the statewide

⁷¹ Fish & G. Code, § 1853, subdivision (c)(1)(C)

⁷² <https://www.wildlife.ca.gov/conservation/planning/connectivity/CEHC>

- nature of its analysis, smaller landscape blocks were identified and should be used for evaluating connectivity at a regional scale.⁷³
- Modeled Linkages, or Essential Connectivity Areas, represent coarse scale, generalized habitat connections between natural landscape blocks. These connections provide a broad-scale view of habitat connectivity needs at the statewide scale, but they should be supplemented with, or superseded by, fine-scale connectivity analyses at a regional scale, when available.
- b. ACE dataset on the spatial evaluation of the relative contribution of an area to terrestrial connectivity.⁷⁴
- c. Regional, fine-scale connectivity analyses include refinements of the CEHC at a regional scale using finer-scale datasets and based on species movement needs. They may also include different methods applied regionally. Regional, fine-scale connectivity analyses have been or may in the future be completed for several ecoregions in the state. When such scientifically based regional connectivity analyses are readily available, these spatial datasets⁷⁵ and project reports⁷⁶ should be used in preparing an RCA. These datasets can be used to identify overall fine-scale habitat connections within or through an ecoregion, as well as critical movement corridors for individual species that may be of high priority for conservation. Some regional analyses are included in ACE.
- d. CDFW's *Guidance for Fine-Scale Wildlife Connectivity Analysis*⁷⁷ is a report that provides guidance to complete a fine-scale wildlife connectivity analysis that meets CDFW standards. The report includes information on species selection criteria and landscape block identification and details the model development process using examples from CDFW's case study analysis of wildlife connectivity across the northern Sierra Nevada foothills that was conducted after the completion of the CEHC project. RCA proponents are not required to develop a fine-scale connectivity analysis; however, if RCA proponents choose to develop this type of analysis,

⁷³ This data is available in BIOS as two layers: "Natural Landscape Blocks" shows blocks that are more than 2,000 acres in size, and "Natural Areas Small" shows blocks that are less than 2,000 acres in size.

⁷⁴ California Department of Fish and Wildlife, Biogeographic Data Branch. February 2018. *ACE Dataset Fact Sheet: Terrestrial Connectivity*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=150835&inline>.

⁷⁵ Available in BIOS: <https://www.wildlife.ca.gov/Data/BIOS>.

⁷⁶ <https://www.wildlife.ca.gov/Conservation/Planning/Connectivity>

⁷⁷ California Department of Fish and Wildlife, Biogeographic Data Branch. December 2014. *Guidance Document for Fine-Scale Wildlife Connectivity Analysis*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=93018&inline>.

CDFW's guidance should be used. RCA proponents must submit a description of the modeling process, methods, and metadata that meet CDFW's minimum metadata standards, and model reviews by recognized species experts (see Section 3.3 – Data Management, Sharing, and Access).

- e. Fish Passage Assessment Database⁷⁸ and/or CDFW Fisheries Branch list of priority fish barriers.⁷⁹ The Fish Passage Assessment Database is an ongoing inventory of known and potential barriers to anadromous fish in California. It compiles currently available fish passage information from more than two hundred data sources and allows past and future barrier assessments to be standardized and stored in one place. The inventory may be used to identify barriers suitable for removal or modification to restore access to spawning and rearing habitat. Contact CDFW Fisheries Branch for their list of priority fish barriers in the RCA area.
- f. CDFW's Wildlife Movement Barrier Priorities Dataset depicts segments of linear infrastructure (roads, railroads, canals, etc.) that have been identified as high priority barriers to terrestrial wildlife movement by biologists in CDFW Regions 1-6 and includes a list of high-priority species for each segment. The barrier priorities dataset is updated on a regular basis to reflect shifts in regional priorities as remediation efforts are implemented and new barriers are identified.

Links to spatial data associated with many of the datasets described above can also be found in the CDFW Habitat Connectivity Viewer.⁸⁰

3.2.5 Existing Conservation Areas

The RCA shall identify existing protected areas⁸¹ within and adjacent to the RCA area and include an explanation of the criteria, data, and methods used to identify them. Protected areas may include lands with a **conservation easement**; federal, state, or local public agency owned lands with conservation value; Marine Protected Areas; reserve networks within an NCCP; designated park and open space; etc. Data sources that may be used to identify protected lands include, but are not limited to the following:

⁷⁸ <https://nrm.dfg.ca.gov/PAD/>

⁷⁹ Currently, the most recent list is from 2021. Available: <https://apps.wildlife.ca.gov/bios/?al=ds2970>. For future updates to this list, enter "Fish Passage Priorities" into the BIOS search bar.

⁸⁰ <https://apps.wildlife.ca.gov/bios/?bookmark=648>

⁸¹ Fish & G. Code, § 1853, subdivision (c)(1)

- a. The California Protected Areas Database (CPAD);⁸²
- b. Protected Areas Database of the United States (PAD-US);⁸³
- c. California Conservation Easement Database (CCED);⁸⁴
- d. National Conservation Easement Database (NCED);⁸⁵
- e. Local land use plans;
- f. Knowledge from local stakeholders.

The RCA shall use spatial analyses to identify ecological relationships between existing protected areas and conservation areas.⁸⁶ The spatial analysis, or gap analysis, should identify the degree to which **sensitive species** and resources are captured in existing protected areas including, but not limited to, the total acreage and percent of the RCA area currently in conservation protection and the acreage and percent of each habitat type currently in conservation protection. The analysis should consider the location, size, habitats, and level of connectivity of the protected areas to help identify priority areas for additional conservation efforts.

The RCA proponent should also consider identifying the level of conservation protection and management on existing protected lands, which may be useful in determining whether the RCA should identify locations within or adjacent to a particular protected area as ideal for further conservation planning. This information is captured by the Gap Analysis Program (GAP) Status Rank⁸⁷ as provided in CPAD and PAD-US. The GAP Status Rank, when available, gives an indication of the level of conservation protection afforded to various lands based on their management strategies.

3.2.6 Pressures and Stressors

The RCA shall identify the pressures and stressors for the ecoregion(s) that occur in the RCA area. An RCA is not required to include pressures and stressors for each identified species in the RCA. An RCA shall identify and summarize relevant regional pressures and stressors, including those

⁸² <http://www.calands.org/>

⁸³ <https://gapanalysis.usgs.gov/padus/>

⁸⁴ <http://www.calands.org/cced/>; additional conservation easement information may be available from local land trusts

⁸⁵ <https://www.conservationeasement.us/>

⁸⁶ Fish & G. Code, § 1853, subdivision (c)(3)

⁸⁷ <https://gapanalysis.usgs.gov/padus/data/>

associated with climate change⁸⁸ and invasive species. As a starting point, RCA proponents shall indicate and reference pressures and stressors provided in the current version of SWAP (Tables 1.5-2 and 1.5-3 in SWAP 2015), and identify, summarize, and reference additional regional pressures and stressors indicated in approved NCCPs and other applicable conservation plans within the RCA area.⁸⁹

3.2.6.1 Climate Change Vulnerability

RCA proponents shall use existing analyses and information to identify exposure of the RCA area to climate change (e.g., magnitude of projected changes in temperature and precipitation, sea level rise), climate vulnerable resources in the RCA (e.g., vulnerable fish, wildlife, and plant species), and areas that may be resilient to the impacts of climate change.

For existing information on climate vulnerability of California species and habitats and links to associated datasets, please refer to CDFW's climate change vulnerability assessment website.⁹⁰ This website will be maintained to provide relevant resources that will aid proponents in developing content for this section of the RCA in accordance with the list of requirements below.

An RCA shall include summaries of the following relevant existing data, when available:

- a. Lists of climate-vulnerable species or species groups and natural communities developed or supported by CDFW. These include species, species groups, and natural communities recognized in climate vulnerability assessments for birds, mammals, reptiles, amphibians, fish, and plants in California including those listed in the current version of SWAP (Criteria 3 in the SGCN list of SWAP 2015).⁹¹ Vulnerable vegetation assessments may be found in A Climate Change Vulnerability Assessment of California's Terrestrial Vegetation.⁹²

⁸⁸ Fish & G. Code, § 1853, subdivision (c)(1)

⁸⁹ Fish & G. Code, § 1853, subdivision (c)(1)(A)

⁹⁰ <https://www.wildlife.ca.gov/Conservation/Climate-Science/Resources/Vulnerability>

⁹¹ California Department of Fish and Wildlife. 2015. *California State Wildlife Action Plan, 2015 Update: A Conservation Legacy for Californians*. Appendix C: *Species of Greatest Conservation Need*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109224&inline>.

⁹² Thorne, J.H., R.M. Boynton, A.J. Holguin, J.A.E. Stewart, & J. Bjorkman. (2016) *A Climate Change Vulnerability Assessment of California's Terrestrial Vegetation*. California Department of Fish and Wildlife (CDFW), Sacramento, CA. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=116208&inline>

- b. Other factors that may contribute to climate resilience such as diverse land facets⁹³ (geophysical features expected to support biodiversity in a changing climate) and high levels of connectivity (corridors to facilitate movement as species' ranges and species' habitats shift in response to climate change). Where available, data or information should be included that demonstrate how land facets and/or corridors within the RCA may promote climate resilience.
- c. Geospatial information on climate exposure with respect to species, including information from existing projected range-shift models for wildlife species developed for CDFW climate vulnerability analyses, where available.
- d. Geospatial information on landscape-scale climate exposure, such as:
 - High-climate-exposure natural community areas as identified by the Climate Change Vulnerability Assessment of California's Terrestrial Vegetation.⁹⁴ These represent habitats that are expected to experience major changes in composition, such as habitat type conversion, due to changes in temperature and water availability.
 - Coastal areas expected to be impacted by sea level rise. Tools such as Cosmos,⁹⁵ CalAdapt,⁹⁶ the NOAA Sea Level Rise viewer,⁹⁷ the Coastal Conservancy's Climate Ready Program,⁹⁸ and California's Climate Change web page on coastal and ocean resources⁹⁹ may assist in identifying stressors associated with sea level rise.
- e. Geospatial information on landscape-scale climate resilience, such as climate-resilient natural community areas representing habitats expected to remain stable in the face of climate change (i.e., potential climate refugia). See ACE datasets on the probability that a given location within California will serve as refugia under climate change.

⁹³https://www.conservationgateway.org/ConservationByGeography/NorthAmerica/UnitedStates/oregon/science/Documents/PNW_Terrestrial_Climate_Resilience_Report_March3_2015.pdf

⁹⁴ Thorne, J.H., R.M. Boynton, A.J. Holguin, J.A.E. Stewart, & J. Bjorkman, California Department of Fish and Wildlife. 2016. *A Climate Change Vulnerability Assessment of California's Terrestrial Vegetation*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=116208&inline>.

⁹⁵ https://walrus.wr.usgs.gov/coastal_processes/cosmos/

⁹⁶ <http://cal-adapt.org/tools/slr-calflod-3d/>

⁹⁷ <https://coast.noaa.gov/slr/beta/#/layer/slr>

⁹⁸ http://scc.ca.gov/climate_change/

⁹⁹ http://www.climatechange.ca.gov/adaptation/coast_and_oceans.html

- f. Other readily available analyses that indicate exposure of the RCA area to climate change, climate vulnerable resources in the RCA, and areas that may be resilient to the impacts of climate change.

3.2.6.2 Invasive Species

The RCA shall include invasive species within the RCA area as a pressure or stressor on sensitive species and resources. Information is available from CDFW's Invasive Species Program,¹⁰⁰ California Department of Food and Agriculture,¹⁰¹ Invasive Species Council of California,¹⁰² California Invasive Plant Council online inventory,¹⁰³ and county agricultural commissioner offices.¹⁰⁴

3.2.7 Other Considerations

The RCA shall consider existing major water, transportation, and transmission infrastructure facilities in the RCA area and account for reasonably foreseeable development of major infrastructure facilities including, but not limited to, renewable energy and housing.¹⁰⁵ Existing land uses and reasonably foreseeable development may be identified through publicly and readily available sources, such as by reviewing city and county general plans, state water and transportation plans, regional transportation plans, other land use planning documents, and consultation and personal communication with infrastructure agencies. Information on renewable energy projects may be obtained from the cities, counties, and the California Energy Commission. The RCA must, at a minimum, include text and/or ideally maps that provide the general types (e.g., housing, renewable energy) and general locations for existing and future development.

3.2.8 Consistency and Compliance

An RCA shall be consistent with and compliment any draft and approved NCCPs, regional federal **Habitat Conservation Plans (HCPs)**, and approved state and federal **recovery plans** that overlap with the ecoregion or **sub-**

¹⁰⁰ <https://www.wildlife.ca.gov/Conservation/Invasives>

¹⁰¹ <http://www.cdffa.ca.gov/plant/>

¹⁰² <http://www.iscc.ca.gov/species.html>

¹⁰³ <http://cal-ipc.org/paf/>

¹⁰⁴ http://www.cdffa.ca.gov/exec/county/county_contacts.html

¹⁰⁵ Fish & G. Code, § 1853, subdivision (c)(7)

ecoregion included in the RCA.¹⁰⁶ The RCA shall also include an explanation of whether, and to what extent, the RCA is consistent with any previously approved or amended assessment, state or federal recovery plan, or other state or federal approved conservation strategy that overlaps with the RCA area.¹⁰⁷ This can be accomplished by including brief summaries that compare the RCA components (such as natural communities, habitat connectivity areas, existing conservation lands, conservation priorities and conservation areas) to those identified in these other plans. If inconsistencies exist, explain the scientific basis for how and why the RCA is acceptable.

An RCA shall consider local general plans and include a statement explaining how the RCA will be in compliance with all applicable laws and does not preempt the authority of state and local agencies to implement infrastructure and urban development in local general plans.¹⁰⁸

3.3 Data Management, Sharing, and Access

RCA proponents are encouraged to consult with CDFW RCIS Program staff when developing a plan for data management during the RCA development and approval period.

All data and models used for or created for the RCA shall be readily available to potential users, including RCA proponents, and shall not depend upon the acquisition of proprietary data, software, or licenses. If an RCA proponent wishes to use proprietary data or models not readily available to the public, the proponent shall confer with CDFW.

All spatial and non-spatial data created during RCA development shall be submitted to CDFW via a File Transfer Protocol (FTP) site at the time that the RCA is submitted to CDFW for review. The RCA proponent shall compile spatial input and summary data in an industry-standard (Environmental Systems Research Institute [ESRI]-readable) geospatial format and include metadata that meets CDFW's minimum metadata standards.¹⁰⁹ If needed, the RCA proponent may request that CDFW provide a link to an FTP site, which will remain active for approximately two weeks. CDFW may

¹⁰⁶ Fish & G. Code, § 1853, subdivision (c)(6)

¹⁰⁷ Fish & G. Code, § 1853, subdivision (c)(9)

¹⁰⁸ Fish & G. Code, § 1853, subdivision (c)(8)

¹⁰⁹ Fish & G. Code, § 1853, subdivision (c)(5); <https://wildlife.ca.gov/Data/BIOS/Metadata>

incorporate these data into one or more of its web portals or, at a minimum, will make the data sets available to the public upon request.

RCA proponents may also choose to upload this information onto another (non-CDFW) web portal for interactive use to allow all interested parties to generate queries of regional conservation values within the RCA area. The web portal should clearly display the process-related steps used to compile, develop, and derive RCA information. All spatial data included in the web portal shall have metadata meeting CDFW's minimum metadata standards and be available for download in an industry-standard geospatial format. Examples of an interactive platform include the Desert Renewable Energy Conservation Plan Gateway portal¹¹⁰ and the Bay Area Conservation Lands Network Explorer Tool.¹¹¹

3.4 Review Process for RCAs

This section provides an overview of CDFW's review and approval process for RCAs, which also applies to amended RCAs. An RCA is not required for CDFW approval of an RCIS.¹¹² However, if an RCA has been approved by CDFW, a proposed RCIS that overlaps the RCA area shall explain how and to what extent it has incorporated that RCA's information and analysis.¹¹³ If inconsistencies exist, the RCIS shall include an explanation providing the scientific basis for how and why the RCIS is acceptable.

A public input and review process is recommended but not required prior to the approval by CDFW of an RCA or any subsequent amendments.

3.4.1 CDFW Review Process

After a draft RCA is submitted to CDFW for its review, CDFW shall determine that the RCA is complete or provide the RCA proponent with a written explanation of the information needed to complete the RCA. Once CDFW determines that an RCA is complete, CDFW shall make the draft RCA available to the public on [CDFW's RCIS Program website](#).¹¹⁴ Concurrent with the public review, CDFW may conduct a substantive review of the RCA.

¹¹⁰ <https://drecp.databasin.org>

¹¹¹ <http://www.bayarealands.org/explorer/>

¹¹² Fish & G. Code, § 1853, subdivision (a)

¹¹³ Fish & G. Code, § 1853, subdivision (b)

¹¹⁴ <https://www.wildlife.ca.gov/Conservation/Planning/Regional-Conservation>

3.4.2 Finalizing an RCA

After a final RCA is submitted to CDFW for its review and approval, CDFW shall approve the final RCA or provide the RCA applicant with a written explanation of the information needed to approve the RCA. CDFW shall make all approved RCAs available on [CDFW's RCIS Program website](#).¹¹⁵

3.5 Process to Update an RCA

RCAs are not required to be updated. However, CDFW recommends that an RCA be updated with current scientific information at least every ten years. The updated RCA shall include an explanation of the updates and whether, and to what extent, the RCA is consistent with the previously approved RCA or amended RCA. Upon completion of the update, the public agency responsible for updating the RCA shall submit it to CDFW for review and approval (see Section 1.4 – Program Contacts). CDFW recommends that public input regarding the RCA update be sought to maximize the opportunity to supplement the relevant information.

¹¹⁵ <https://www.wildlife.ca.gov/Conservation/Planning/Regional-Conservation>

Section 4 **Regional Conservation Investment Strategies**

4.1 Introduction

This section provides guidance on the information needed to develop a **Regional Conservation Investment Strategy (RCIS)**, and applies to all RCISs submitted as of the posting date of these Guidelines. An RCIS should be a comprehensive regional conservation strategy that enables the protection of the region's **focal species** and **other conservation elements**, and promotes resilience to foreseeable **pressures** and **stressors**. RCISs will include existing, available information and analyses of **conservation elements** at a **sub-ecoregional** scale, including focal species and their associated habitats, wildlife corridors and linkages, and other relevant natural resources within the **RCIS area**. The intent of the RCIS Program (Program) is to identify high-value conservation and habitat establishment opportunities within the RCIS area to inform and facilitate comprehensive, cohesive, and connected regional conservation outcomes. When implemented, RCIS-directed actions will benefit species conservation, adaptation to climate change, and resiliency in the face of pressures and stressors.

Preparation of an RCIS is voluntary but must developed and submitted by a public agency or federally-recognized tribe. Each RCIS will incorporate the best available scientific data and existing information to identify **goals** and **objectives** for focal species and important conservation elements identified in the RCIS to identify actions that, if implemented, will further those goals and objectives. The actions will benefit the conservation of focal species and their habitats, **non-focal species**, and other conservation elements by addressing or responding to the identified pressures and stressors. Actions identified in an approved RCIS may be implemented as **conservation investments** or for developing advance mitigation **credits** through a Mitigation Credit Agreement (see Section 5 – Mitigation Credit Agreements). It is also the intent of the Program that RCISs inform infrastructure planning and provide project proponents with additional mechanisms for identifying and developing **compensatory mitigation**. An RCIS may be used to assist in land use planning in conjunction with other land use considerations, such as physical geography, social, economic, and risk-reduction analyses. Any organization, entity, or individual may use an approved RCIS.

An RCIS is nonbinding and the development of an RCIS shall not create, modify, or impose regulatory requirements or standards, regulate land use, establish land use designations, or affect the land use authority of a public agency.¹¹⁶ Project proponents in need of compensatory mitigation are not required to use or implement any action described in an RCIS. Only entities that are a party to a **Mitigation Credit Agreement (MCA)** will be required to implement the RCIS goals, objectives, and actions that form the basis for the MCA.¹¹⁷ Additionally, the preparation or approval of an RCIS does not alter the requirements of the California Environmental Quality Act (CEQA),¹¹⁸ the California Endangered Species Act (CESA),¹¹⁹ the Natural Community Conservation Planning Act (NCCPA),¹²⁰ or the California Department of Fish and Wildlife's (CDFW's) Lake and Streambed Alteration (LSA)¹²¹ and Conservation and Mitigation Bank¹²² programs.¹²³

An RCIS may be proposed by any public agency, including CDFW, or a federally-recognized tribe and shall be developed after consulting with local agencies with land use authority (i.e., each city and county) within the geographic area of the RCIS.¹²⁴ Other entities whose jurisdictions are likely to be included in the RCIS's actions should be considered for participating in the RCIS planning process. For guidance on RCIS consultation, consistency, and compliance requirements and recommendations, see Section 4.3.4.5 – Consistency with Other Conservation Plans.

The public agency proposing the RCIS shall notify CDFW of its intent to develop an RCIS by emailing the [RCIS Program email address](#).¹²⁵ CDFW may approve an RCIS for an initial period of up to ten years.¹²⁶

¹¹⁶ Fish & G. Code, § 1851, subdivision (l)

¹¹⁷ Fish & G. Code, § 1855, subdivisions (a)

¹¹⁸ Pub. Resources Code §§ 21000 – 21189

¹¹⁹ Fish & G. Code, §§ 2080 – 2085

¹²⁰ Fish & G. Code, § 2035

¹²¹ Fish & G. Code, §§ 1600 – 1613

¹²² Fish & G. Code, §§ 1797 – 1799

¹²³ Fish & G. Code, § 1855, subdivisions (b)(1 & 2)

¹²⁴ Fish & G. Code, § 1852, subdivision (a)

¹²⁵ rcis@wildlife.ca.gov

¹²⁶ Fish & G. Code, § 1854, subdivision (a)

4.2 Consultation

An **RCIS proponent** must develop the RCIS after consulting with all local public agencies that have land use authority (i.e., cities and counties) within the geographic area of the RCIS.¹²⁷ Early and ongoing consultation with CDFW is strongly recommended. The RCIS proponent should also prepare an RCIS collaboratively with other public agencies or other stakeholders, including non-profit organizations or other interested parties. See Section 4.5.1.1 (Consultation with Stakeholders) for guidance on the notification and invitation process with local land use authorities and for CDFW's recommendations to consult with other entities.

4.3 Required Components of an RCIS

CDFW may approve an RCIS after finding that the RCIS meets the requirements of Fish and Game Code, section 1852.¹²⁶ To assist RCIS proponents in meeting these requirements, the following subsections include explanations and guidance regarding the minimum information that is required (i.e., "shall" and "must") to be included in RCIS before it can be approved by CDFW. These sections also included suggestions (i.e., "should" and "may") for further information that an RCIS proponent may choose to add to an RCIS.

It is the intent of the RCIS Program to establish requirements that provide sufficient flexibility to develop each RCIS based on the best available information regarding the RCIS area.¹²⁸ The RCIS shall incorporate and cite the best scientific information that is available for the RCIS area and the surrounding **ecoregion**.¹²⁹

Any maps or text descriptions provided in an RCIS should include a level of detail commensurate with the scale of the RCIS area and its resources but shall not include individual parcel boundaries or other parcel-specific detail.

For an action identified in an RCIS to be used to create mitigation credits through an MCA, the RCIS shall include components discussed in Section 4.3.8 (Additional Requirements to Create MCAs).

¹²⁷ Fish & G. Code, § 1852, subdivision (a)

¹²⁸ Fish & G. Code, § 1854, subdivision (b)

¹²⁹ Fish & G. Code, § 1852, subdivision (c)(14)

4.3.1 Compliance with Existing Laws and Regulations

An RCIS is nonbinding and voluntary and cannot create, modify, or impose regulatory requirements or standards nor can it regulate the use of land, establish land use designations, or affect the land use authority or the exercise of discretion by any public agency.¹³⁰ An RCIS must include a statement explaining how it will be in compliance with all applicable laws and that it does not preempt the authority of the state or of local agencies to implement infrastructure and urban development in local general plans.¹³¹ The RCIS shall clarify that the approval or existence of an RCIS does not do any of the following:¹³²

- a. Modify in any way the standards for issuance of incidental take permits, consistency determinations, take authorizations, lake or streambed alteration agreements, or any other permits or authorizations;
- b. Modify in any way the standards under CEQA, or in any way limit a lead agency's or responsible agency's discretion in determining whether a proposed project may or may not result in significant environmental effects or in any way establish a presumption of whether a proposed project may or may not result in significant environmental effects or whether a proposed project's impacts would be mitigated;
- c. Prohibit or authorize any project or project impacts;
- d. Create a presumption or guarantee that any proposed project will be approved or permitted, or that any proposed impact will be authorized, by any state or local agency;
- e. Create a presumption that any proposed project will be disapproved or prohibited, or that any proposed impact will be prohibited, by any state or local agency;
- f. Alter or affect, or create additional requirements for, the general plan of the cities and counties that overlap the RCIS area;
- g. Constitute any of the following, for the purposes of CEQA: (1) a plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect; (2) a local policy or ordinance protecting biological

¹³⁰ Fish & G. Code, § 1851, subdivisions (l)

¹³¹ Fish & G. Code, §§ 1852, subdivision (c)(7)

¹³² Fish & G. Code, §§ 1855, subdivision (b)(1-7)

resources; or (3) an adopted local, regional, or state habitat conservation plan.

To help clarify the intent of these provisions to the RCIS users, the RCIS proponent may choose to restate or expand on these statements.

4.3.2 Purpose and Need

The RCIS shall include an explanation of the conservation purpose of and need for a conservation strategy within the RCIS area.¹³³ The need for the RCIS should describe the existing conditions within the RCIS area that are the basis for the decision to develop an RCIS (e.g., lack of local conservation planning, lack of mitigation opportunities). The purpose of the RCIS should respond to the need for the RCIS. At a minimum, the RCIS's conservation purpose shall be to inform science-based actions that would advance the conservation of focal species and other conservation elements.¹³⁴ The conservation purpose shall also be to provide guidance for one or more of the following:¹³⁵

- a. Identification of wildlife and habitat conservation **priorities**, including actions to address the impacts of climate change and other wildlife stressors;
- b. Investments in resource conservation;
- c. Infrastructure; and/or
- d. Identification of areas for compensatory mitigation for impacts to focal species and other conservation elements.

4.3.3 Description of the RCIS Area

The RCIS area is the geographic area encompassed by an RCIS. There is no minimum or maximum size for an RCIS area; however, an RCIS area should be a complete, unfragmented geographic area. Multiple RCISs shall not overlap one another. RCISs that are adjacent or near one another shall not conflict, nor shall the purpose of one RCIS undermine or be incompatible with the purpose of the other RCIS.

¹³³ Fish & G. Code, § 1852, subdivision (c)(1)

¹³⁴ Fish & G. Code, § 1852, subdivision (b)

¹³⁵ Fish & G. Code, § 1852, subdivision (b)(1-4)

Criteria for selecting and defining the RCIS area should be based on ecological considerations, including subdivisions of one or more U.S. Department of Agriculture (USDA) ecoregions¹³⁶ or U.S. Geological Survey (USGS) Hydrologic Unit Codes (HUCs).¹³⁷ An RCIS area may also be further modified by administrative boundaries such as county lines or jurisdictional boundaries of the RCIS proponent.

Other factors to consider when defining the RCIS area may include, but are not limited to:

- a. Areas of resilient habitat (to climate change or other stressors and pressures), U.S. Fish and Wildlife Service (USFWS) – defined designated critical habitat or recovery units for one or more focal species, or distinct population segments or ecologically significant units (e.g., National Marine Fisheries Service (NMFS) equivalent for fish).
- b. Areas where **conservation actions** or **habitat enhancement actions**, when implemented, may benefit focal species and other conservation elements including, when feasible, contributing to species recovery or sustaining focal species populations. Consider, for example, the extent of a key ecological resource or the range for a local distinct population segment of an anticipated focal species.
- c. Areas where NCCPs and HCPs have not been developed and are unlikely to be developed or where conservation or mitigation banks have not been established.

The RCIS shall include a concise description of the RCIS's geographic area and the rationale for why it was selected, including the rationale for excluding any areas. The description shall indicate the USDA Ecoregional section or sub-ecoregions and the USGS HUC units that overlap with the RCIS area, in part or in whole. The description shall also identify the surrounding ecoregion(s) and describe any adjacent protected habitat areas (see Section 4.3.4.3 – Existing Protected Areas) and linkages (see Section 4.3.7.6 –

¹³⁶ Goudey, C.B., and D.W. Smith, eds. 1994. Ecoregions California07_3. McClellan, CA. Remote Sensing Lab. Updated with ECOMAP 2007: Cleland, D.T.; Freeouf, J.A.; Keys, J.E., Jr.; Nowacki, G.J.; Carpenter, C; McNab, W.H. 2007. Ecological Subregions: Sections and Subsections of the Conterminous United States [1:3,500,000] [CD-ROM]. Sloan, A.M., cartog. Gen. Tech. Report WO-76. Washington, DC: U.S. Department of Agriculture, Forest Service. Miles and Goudey 1997. *Ecological subregions of California*. Technical Report R5-EM-TP-005, USDA Forest Service, Pacific Southwest Region, San Francisco, CA.

¹³⁷ The United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS), the United States Geological Survey (USGS), and the Environmental Protection Agency (EPA). The Watershed Boundary Dataset (WBD) was created from a variety of sources from each state and aggregated into a standard national layer for use in strategic planning and accountability. Available: <http://datagateway.nrcs.usda.gov>

Habitat Connectivity) that provide relevant context and rationale for the RCIS.¹³⁸

4.3.4 Land Use and Conservation Plans

4.3.4.1 Consideration of Existing Land Uses and Foreseeable Development

An RCIS shall consider existing land uses, including major water, transportation, transmission infrastructure facilities, and urban development areas in the RCIS area.¹³⁹ An RCIS must also consider future development, includes reasonably foreseeable development of major infrastructure facilities, including, but not limited to, renewable energy and housing in the RCIS area.¹⁴⁰

Existing land uses and reasonably foreseeable development may be identified through publicly and readily available sources, such as by reviewing city and county general plans, state water and transportation plans, regional transportation plans, other land use planning documents, and consultation and personal communication with infrastructure agencies (see Section 4.5.1.1 for consultation requirements and suggestions). Information on renewable energy projects may be obtained from the cities, counties, and the California Energy Commission. Sources of information shall be cited. The RCIS must, at a minimum, include text and/or ideally maps that provide the general types (e.g., housing, renewable energy) and general locations for existing and future development.

An RCIS shall include a brief discussion of how current land uses and reasonably foreseeable development was considered in developing the RCIS. For example, focal species, other conservation elements, or non-focal species may be selected due to anticipated mitigation needs for future development or priority locations may be selected based on current or future land use information. Yet, the specific project details, such as the impacts that may result from a specific development, must not be included, estimated, or discussed in an RCIS. Additionally, the RCIS proponent shall demonstrate a good faith effort to work together with local land use authorities and shall include a description of their consultation process (see Section 4.5.1.1) in the RCIS.

¹³⁸ Fish & G. Code, § 1852, subdivision (c)(2)

¹³⁹ Fish & G. Code, § 1852, subdivision (c)(6)

¹⁴⁰ Fish & G. Code, § 1852, subdivisions (c)(6) and (e)(2-4)

Actions should be developed to conserve natural communities, focal species, and other conservation elements with both conservation and existing and reasonably foreseeable land uses in mind.

4.3.4.2 Consideration of Working Lands

An RCIS shall consider the conservation benefits of preserving **working lands** (e.g., farms and ranches) for agricultural uses.¹⁴¹ Where working lands provide valuable habitat for focal species, the RCIS proponent should develop focal species actions in consideration of the conservation benefit that working lands could provide. Those actions should focus on adjustments that could be made to farming and ranching practices that would increase the ecological value of the land for focal species (e.g., reduce or eliminate rodenticide use, delay timing of harvest). Working lands may also be included in the RCIS as a conservation element (see Section 4.3.5.3) with its own set of goals, objectives, and actions, which may benefit focal species and non-focal species. An RCIS shall include a brief discussion of how the conservation benefits of working lands within the RCIS area were considered.

4.3.4.3 Existing Protected Areas

An RCIS shall identify existing protected areas within and adjacent to the RCIS area and include an explanation of the criteria, data, and methods used to identify them.¹⁴² Protected areas may include lands with a **conservation easement**; federal, state, or local public agency owned lands with conservation value; Marine Protected Areas; reserve networks within an NCCP; designated park and open space; etc. Data sources that may be used to identify protected lands include, but are not limited to, the following:

- a. The California Protected Areas Database (CPAD);¹⁴³
- b. Protected Areas Database of the United States (PAD-US);¹⁴⁴
- c. California Conservation Easement Database (CCED);¹⁴⁵
- d. National Conservation Easement Database (NCED);¹⁴⁶

¹⁴¹ Fish & G. Code, § 1852, subdivision (e)(1)

¹⁴² Fish & G. Code, § 1852, subdivision (c)(4)

¹⁴³ <http://www.calands.org/>

¹⁴⁴ <https://gapanalysis.usgs.gov/padus/>

¹⁴⁵ <http://www.calands.org/cced/>; additional conservation easement information may be available from local land trusts.

¹⁴⁶ <https://www.conservationeasement.us/>

- e. Local land use plans;
- f. Knowledge from local stakeholders.

The RCIS proponent should also consider identifying the level of conservation protection on existing protected lands, which may be useful in determining whether the RCIS should suggest actions within or adjacent to a particular protected area. This information is captured by the USGS National Gap Analysis Program (GAP) Status Rank¹⁴⁷ as provided in CPAD and PAD-US. The GAP Status Rank, when available, gives an indication of the level of conservation protection afforded to various lands based on their management strategies.

An RCIS proponent may also choose to use this information to conduct a gap analysis or spatial analysis to identify the degree to which conservation elements are captured in existing protected areas including, but not limited to, the total acreage and percent of the RCIS area currently in conservation protection and the acreage and percent of each habitat type currently in conservation protection. If such an analysis is done, it may serve as the basis for identifying the conservation targets for the focal species and other conservation elements (see Section 4.3.6.3 – Actions) and could provide a baseline against which RCIS implementation could be evaluated (see Section 4.7 for information regarding RCIS evaluation requirements).

4.3.4.4 Summary of Mitigation and Conservation Banks within an RCIS Area

The RCIS shall include a summary of all conservation and mitigation banks approved by CDFW, USFWS, NMFS, EPA, and/or the U.S. Army Corps of Engineers that are located within the RCIS area or whose service area overlaps the RCIS area.¹⁴⁸ Information about conservation and mitigation banks may be found by using the U.S. Army Corps of Engineers' Regulatory In-lieu Fee and Bank Information Tracking System (RIBITS),¹⁴⁹ and reach out to CDFW to seek information on CDFW only banks. The summary shall list the types of credits available at each bank and shall indicate which of the banks are approved by CDFW.

¹⁴⁷ <https://gapanalysis.usgs.gov/padus/data/>

¹⁴⁸ Fish & G. Code, § 1852, subdivision (c)(12)

¹⁴⁹ <https://ribits.ops.usace.army.mil/>

4.3.4.5 Consistency with Other Conservation Plans

An RCIS shall be consistent with and complement any **draft NCCPs**, approved NCCPs, and federal **Habitat Conservation Plans (HCPs)** that overlap the RCIS area.¹⁵⁰ An RCIS should also be consistent with any **Regional Conservation Assessments (RCAs)** and approved state or federal **recovery plans** that overlap the RCIS area. The RCIS must include the following information for each plan type:

Consistency with NCCPs and HCPs

If an approved NCCP or HCP, or draft NCCP, overlaps with a proposed RCIS area, the RCIS shall provide a brief summary of how and to what extent it is consistent with and complementary to the NCCP or HCP by including the consistency information described below. The summaries for each NCCP and HCP shall review both the consistencies and inconsistencies between the species covered; goals, objectives, and actions; and areas identified as priorities for conservation. For any inconsistencies that may exist, the RCIS must include the rationale that justifies the differences. For example, the RCIS may include different focal species, actions, or priority areas to avoid conflicts that would limit the NCCP's ability to meet its requirements. Conversely, an RCIS may include similar species or actions to provide mitigation opportunities for entities or projects that are not eligible for coverage under the NCCP.

Consistency with Recovery Plans

An RCIS must include an explanation of whether and to what extent the RCIS is consistent with any approved state or federal recovery plan that overlaps with the RCIS area.¹⁵¹

Consistency with RCAs

If a CDFW-approved RCA encompasses or overlaps with a proposed RCIS area, the RCIS shall explain how and to what extent it has incorporated the RCA's information and analysis.¹⁵²

¹⁵⁰ Fish & G. Code, § 1852, subdivisions (c)(10) and (e)(5)

¹⁵¹ Fish & G. Code, § 1852, subdivision (c)(11)

¹⁵² Fish & G. Code, § 1853, subdivision (b)

4.3.5 Focal Species, Non-focal Species, and Other Conservation Elements

The RCIS shall identify and describe the RCIS area's important conservation elements, which includes focal species and other conservation elements. Other conservation elements are considered the important ecological resources, habitat, and processes in the RCIS area. An RCIS may also include other non-focal, species whose ecological needs are the same as, or similar to, those of a focal species or other conservation element.

Focal species, non-focal species, and other conservation elements may benefit through either conservation investments, MCAs, or both. Focal species, non-focal species, and other conservation elements must be included in an RCIS to be considered for credits in an MCA.¹⁵³ However, to have a comprehensive RCIS, the RCIS should not be restricted solely to those species and other conservation elements with anticipated compensatory mitigation needs under CESA, CEQA, LSA, or other state, federal, and local laws and regulations. The final focal species list and list of other conservation elements shall be representative of all major and unique natural communities and **ecosystem processes** that characterize the conservation needs in the RCIS area such that the RCIS results in a comprehensive, cohesive, and connected regional conservation outcome with enhanced adaptation to pressures and stressors.

CDFW recommends that the RCIS proponent involve stakeholders and a technical review team in developing the list of focal species, non-focal species, and other conservation elements (see Sections 4.5.1.1 for requirements and suggestions regarding stakeholder involvement). The subsections below provide further details on the selection process and required information for focal species, non-focal species, and other conservation elements.

4.3.5.1 Focal Species Selection Process

A preliminary species list shall be developed using the best available scientific information (see Section 4.3.7.3 – Species Information and List Development). Once a preliminary species list is developed, it must be refined to create the final focal species list. The RCIS must include a description of the criteria, data, and methods for refining the preliminary list, including the reasons for excluding species. For example, if a species is already protected under an

¹⁵³ Fish & G. Code, § 1856, subdivision (a)

approved conservation plan covering the same area as the RCIS, then that species may be considered for exclusion with written justification. Lack of information about a species may be another justification for exclusion, in which case the information needed for that species should be noted as a scientific information gap (see Section 4.3.7.9 regarding gaps in scientific information).

The focal species list shall consist of a range of species with conservation needs within the RCIS area and should include federal- and state-listed species, wide-ranging species, climate-vulnerable species, and representative species from major taxonomic groups (see further descriptions of these in the list below). Focal species must be native species.

- a. **Listed Species** – Listed species include all federal- or state-listed species, candidates for listing, and California Fully-Protected species. CDFW recommends that the focal species list include listed species that are most representative of the major and unique natural community types in the RCIS area and ecosystem processes that are characteristic of the conservation needs in the RCIS area. Listed species that are included in an RCIS should be focal species (as opposed to non-focal species), particularly if they cannot be closely associated with a single focal species or other conservation element.
- b. **Wide-ranging Species** – Wide-ranging focal species are those that require contiguous (i.e., connected) blocks of habitat and represent the general wildlife and habitat connectivity needs in the RCIS area. This includes achieving and maintaining wildlife and plant dispersal connectivity across or through barriers such as infrastructure, fences, and other landscape barriers, and ensuring that species movement and habitat requirements are conserved at different scales, as applicable (for example, movement of species to and from wetlands such as streams and vernal pools, as well as species movement throughout large regions).
- c. **Climate-Vulnerable Species** – Climate-vulnerable focal species are those that have been analyzed in the best available science and have been found to be vulnerable to the effects of climate change. Climate-vulnerable focal species may be identified by reviewing species-specific analyses in peer-reviewed literature, CDFW’s current version of **California State Wildlife Action Plan (SWAP)** climate-vulnerable **Species of Greatest Conservation Need (SGCN)**, and lists of species deemed to be vulnerable to the effects of climate change by other agencies.

- d. Taxonomic Group Representatives – In an effort to address the unique ecological needs and pressures and stressors of various taxonomic groups, one or more species from each of the following major taxonomic groups should be included in the final focal species list: plants, invertebrates, fish, amphibians, reptiles, birds, and mammals.

4.3.5.2 Required Focal Species Information

The RCIS shall include focal species summaries that provide a sufficient basis for the RCIS goals, objectives, actions, and priorities to benefit the species and to address pressures and stressors. The summaries shall use the best available scientific information and shall include proper citations (see Section 4.3.7 – Best Available Scientific Information). The summaries should provide a basis for the development of reasonable **metrics** to measure the RCIS objectives (see Section 4.3.6.2 – Objectives).

Each focal species summary shall include the following information:

- a. A brief summary and a map of the species' current range, as identified by CDFW, USFWS, NMSF, or the best available science. The summary and map shall, at a minimum, include the species' range within the RCIS area as well as any applicable adjacent areas that could allow for connectivity outside the RCIS area. The state-wide range, if applicable, may also be shown. The species' range summary and map may be used in the biological justification for determining an MCA **service area**.
- b. The species' regulatory status, if any.
- c. Maps and description of the known occurrences and potential distribution based on existing habitat and, if known, the quality of that habitat within the RCIS area¹⁵⁴ (see Section 4.3.7.4 – Distribution of Focal Species and Natural Communities). RCIS proponents are not required to create new species distribution models.
- d. The species' ecological requirements (i.e., habitat components; movement characteristics including dispersal, migration, habitat connectivity and home-range needs; and biotic and abiotic conditions). The species' ecological requirements discussion does not need to describe the species' full life history, but it should be sufficiently detailed to provide a basis for the goals, objectives, actions, and priorities. The summaries should also include any aspects of the species' life history that

¹⁵⁴ Fish & G. Code, § 1852, subdivision (c)(3)

alters its ecological requirements (e.g., provide the seasonal time frame during which a migratory bird would be present in the RCIS area and using the RCIS's ecological resources) as well as seasonal constraints on species identification (e.g., a plant's typical blooming period).

- e. The RCIS shall include a summary of historic, current, and projected pressures and stressors on the focal species in the RCIS area. The summary must discuss climate change, land use changes, invasive species (see Section 4.3.7.8 – Invasive Species), and other pressures and stressors identified in the best available science, including, but not limited to, those identified in the SWAP for overlapping ecoregions.¹⁵⁵ The climate change summary must include information about climate change vulnerability, as available (see Section 4.3.7.7 – Climate Change Risk and Resilience). A general description of pressures and stressors may be discussed for a group of species, provided there is a focused discussion about how those pressures and stressors influence focal species. The focused discussion must explain how the actions provide opportunities for the focal species to overcome the adverse effects of the pressures and stressors.¹⁵⁶

If an NCCP overlaps with the RCIS area and an RCIS focal species is covered by the NCCP, the NCCP covered species information and analysis may be included in the RCIS focal species summaries and the NCCP must be cited, as appropriate.

4.3.5.3 Other Conservation Elements Selection Process

An RCIS shall include other conservation elements needing conservation within the RCIS area, and those whose inclusion would help to achieve a comprehensive, cohesive, and connected regional conservation outcome. Other conservation elements are the important resources and processes within the RCIS area, including major and unique natural communities, habitat, habitat connectivity, ecosystem processes, and water resources – these are described further in the list below. An RCIS shall explain how the other conservation elements were selected, including the science-based criteria, data, and methods¹⁵⁷ and the reasons for excluding any conservation elements. Reasons for exclusion may include that a focal species' goals, objectives, and actions will sufficiently address the conservation needs of a conservation element.

¹⁵⁵ Fish & G. Code, § 1852, subdivision (c)(5)

¹⁵⁶ Fish & G. Code, § 1852, subdivision (c)(13)

¹⁵⁷ Fish & G. Code, § 1852, subdivision (c)(4)

- a. Natural Communities – The RCIS shall include any natural communities that may be important in the RCIS area,¹⁵⁸ including major types and those considered unique, sensitive, vulnerable to pressures and stressors, and declining. Other natural communities should be considered for inclusion if they have conservation benefits for focal or non-focal species, may require compensatory mitigation, or provide other benefits, such as **ecosystem services** including carbon sequestration; protection against flood, fire, or storm damages; open space and park values; agriculture and cultural values; or other benefits.
- b. Habitat – The RCIS should include any important habitat types that are not easily characterized by the natural communities. Such habitat types should be considered for inclusion if they have conservation benefits for focal or non-focal species, may require compensatory mitigation, or provide other benefits.
- c. Habitat Connectivity – The RCIS shall include habitat connectivity¹⁵⁸ as a conservation element (see Section 4.3.7.6).
- d. Ecosystem Processes – The RCIS shall include any ecosystem processes that are important to the RCIS area.¹⁵⁸ Examples include a dynamic river meander zone; a stream's or river's pool, riffle, or run areas; floodplains; peat-development areas; and tidal zones.
- e. Water Resources – The RCIS should include, Waters of the United States, Waters of the State, and other applicable water resources, particularly if they are likely to incur permitting needs under CDFW's or other state or federal agency's jurisdiction that may be mitigated through an MCA.

4.3.5.4 Required Information for Other Conservation Elements

The RCIS shall include summaries for other conservation elements. Summaries for other conservation elements shall be sufficiently detailed, using the best available scientific resources (see Section 4.3.7 – Best Available Scientific Information) and proper citations, to provide the basis for the RCIS's goals, objectives, actions, and priorities for those conservation elements, and to address pressures and stressors. The summaries should provide a basis for the development of reasonable metrics to measure the RCIS objectives (see Section 4.3.6 – Conservation Strategy and Section 4.3.8 – Additional Requirements to Create MCAs).

¹⁵⁸ Fish & G. Code, § 1852, subdivision (c)(4)

The following information shall be included in the summaries for all other conservation elements:

- a. Description of the other conservation element, including its ecological characteristics and status (i.e., sensitive, vulnerable, declining, etc.), if any;
- b. Description and map of the current known or estimated extent within the RCIS area (see Section 4.3.7 - Best Available Scientific Information);
- c. Ecosystem services, if applicable to the conservation element.
- d. The RCIS shall include a summary of historic, current, and projected pressures and stressors on the other conservation element in the RCIS area. The summary must discuss climate change, land use changes, invasive species (see Section 4.3.7.8 – Invasive Species), and other pressures and stressors identified in the best available science, including, but not limited to, those identified in the SWAP for overlapping ecoregions.¹⁵⁹ The climate change summary must include information about climate change vulnerability, as available (see Section 4.3.7.7 – Climate Change Risk and Resilience).¹⁵⁹ A general description of pressures and stressors may be discussed, provided there is a focused discussion about how those pressures and stressors influence the other conservation elements.

4.3.5.5 Associated, Non-focal Species Information

Other, non-focal, species may be included in an RCIS if they are native species with ecological needs that are the same as, or similar to, those of a focal species or other conservation element. In order to demonstrate sufficient association, the RCIS must include a brief, science-based justification indicating how the non-focal species' ecological requirements align with those of a focal species or another conservation element, and how the actions for the associated focal species or other conservation element would benefit the non-focal species (see Section 4.3.6.3 - Actions).

If a proposed non-focal species has unique ecological needs that require actions beyond those identified for its associated focal species or other conservation elements, the non-focal species should instead be listed as a focal species. MCA credits are only available for non-focal species when an action for its associated focal species or other conservation element is implemented.

¹⁵⁹ Fish & G. Code, § 1852, subdivision (c)(5)

4.3.6 Conservation Strategy

RCIS proponents shall use the best available scientific information on focal species and other conservation elements to develop the RCIS's goals, objectives, actions, and priorities (see Section 4.3.7). The RCIS proponent should consider existing conditions in the RCIS area (see Section 4.3.4), including the current pressures and stressors, as well as the goals, objectives, actions, and priorities discussed in approved conservation plans that overlap the RCIS area (see Section 4.3.4.5), including recovery plans and the current version of SWAP and its companion plans.

Goals, objectives, actions, and priorities for focal species and other conservation elements may be grouped by habitats, taxonomic groups, ecosystem functions, and/or other groups if they largely address the ecological needs of the group and the pressures and stressors affecting the group. If a focal species or other conservation element has unique ecological requirements that are not fully covered by its group, specific goals, objectives, actions, and priorities must be included to address those specific needs.

The goals, objectives, and actions for focal species and other conservation elements are intended to cover the non-focal species that are associated with them (see Section 4.3.5.5). If a proposed non-focal species has unique ecological or conservation needs that are not covered by its associated focal species or other conservation element, the species should instead be included as a focal species with its own goals, objectives, actions, and priorities.

4.3.6.1 Goals

The RCIS shall include conservation goals that reflect broad, desired outcomes for the focal species and other conservation elements. Examples of potential goals include: achieving sustainable native species populations and natural community persistence in the RCIS area, supporting recovery of focal species; **preserving** habitat; **creating, restoring, and enhancing** habitat; reconnecting fragmented habitat blocks; maintaining and enhancing ecological and ecosystem processes and ecosystem services; and improving connectivity by increasing permeability for wildlife movement and migration corridors.

Goals, along with objectives, shall address or respond to the identified pressures and stressors on focal species and other conservation elements.¹⁶⁰ The RCIS must describe how the goals provide for adaptation opportunities against negative effects of climate change for the focal species.¹⁶¹

4.3.6.2 Objectives

An RCIS must include one or more objectives that could achieve each conservation goal. An objective is a concise statement of a target outcome for a focal species or other conservation element. Objectives, along with the goals, shall address or respond to the identified pressures and stressors on focal species and other conservation elements.¹⁶⁰ The RCIS must describe how the objectives provide for adaptation opportunities against negative effects of climate change for the focal species.¹⁶¹ Objectives must also include the following requirements:

- a. Objectives shall be measurable¹⁶⁰ such that they allow for the use of consistent metrics to measure the net change resulting from the implementation of the actions. The metrics used during implementation must incorporate both the area and quality of habitat or other natural resource.¹⁶² To support the use of consistent metrics, the RCIS's objectives must identify the types of habitat or ecosystem processes that need protection or **establishment** to benefit the focal species and other conservation elements. Additionally, the RCIS must provide the metrics that may be used during implementation. Metrics must, at a minimum, be generally listed for all objectives or may be specifically identified for each objective.
- b. Objectives must include conservation targets, which are the general amounts and types of habitat that should be preserved or established and **permanently protected** in order to meet the objectives and associated goals.¹⁶³ These conservation targets may be based on targets identified in the overlapping conservation plans or other best available science or may be developed for the RCIS. A gap analysis (see Section 4.3.4.3) may be conducted as a basis for calculating any newly developed conservation targets. The RCIS must briefly explain how the conservation targets were identified or developed.

¹⁶⁰ Fish & G. Code, § 1852, subdivision (c)(8)

¹⁶¹ Fish & G. Code, § 1852, subdivision (c)(13)

¹⁶² Fish & G. Code, § 1854, subdivision (e)

¹⁶³ Fish & G. Code, § 1852, subdivision (c)(9)

4.3.6.3 Actions

An RCIS shall identify actions that could achieve the RCIS's goals and objectives for focal species and other conservation elements. Examples of actions may include, but are not limited to, establishment of habitat and other conservation elements on public or private land, installation of wildlife crossings, and removal of fish barriers. For the purposes of the RCIS Program, actions include both conservation actions, which require permanent protection of the land, and habitat enhancement actions, which require long-term durability of the protections on the land but do not include permanent protection. To allow for flexibility of implementing actions as either a conservation action or a habitat enhancement action, the RCIS may identify actions in a general way, rather than identifying each action as one of these types.

The RCIS proponent should consider incorporating actions from approved conservation plans that overlap the RCIS area (see Section 4.3.4.5), including recovery plans and the current version of SWAP and its companion plans. The RCIS shall include a description of how the actions were selected in relation to the RCIS's goals and objectives.¹⁶⁴

Any person or entity can create MCA credits for focal species, other conservation elements, and associated non-focal species by implementing actions included in the RCIS. MCA credits are only available for non-focal species when an action for its associated focal species or other conservation element is implemented. If credits are needed for a species, other conservation element, or action that is not included in the RCIS, the RCIS may need to be amended (see Section 4.6).

4.3.6.4 Priorities

The RCIS must identify the priority actions and/or locations that represent the most immediate conservation needs of the focal species and other conservation elements within an RCIS area. The RCIS proponent should consider existing conditions, including land use, in the RCIS area as well as priorities from approved conservation plans that overlap the RCIS area (see Section 4.3.4.5), including recovery plans. The RCIS shall include a description of how the priorities were selected.¹⁶⁴

If an action should ideally be implemented within a particular time or location in order to achieve the greatest conservation benefit, this should be

¹⁶⁴ Fish & G. Code, § 1852, subdivision (c)(9)

specified in the priorities. Key locations for priorities shall be indicated by description, map, or both.

4.3.7 Best Available Scientific Information

It is the intent of the RCIS Program to establish requirements that provide sufficient flexibility to develop each RCIS based on the best available information regarding the RCIS area.¹⁶⁵ Development of an RCIS does not require new studies or modeling efforts. Rather, the RCIS shall incorporate and cite the best scientific information that is available for the RCIS area and surrounding ecoregion.¹⁶⁶ The best available scientific information includes, but is not limited to, peer-reviewed literature and datasets identified in the following subsections. RCIS proponents are encouraged to have a technical review team to help ensure that the best available scientific information is used, and to help identify gaps in scientific information.

The information in this section provides further details regarding the requirements outlined throughout the remainder of Section 4.3. Those other sections identify the primary requirements for an RCIS and below is information on how to apply and include the best available scientific information.

4.3.7.1 Use of Standard Vegetation Classifications

An RCIS must use standard or prevalent vegetation classifications to enable and promote consistency among RCISs throughout California.¹⁶⁶ The standard vegetation classification system for California is CDFW's Natural Communities List,¹⁶⁷ which is based on *A Manual of California Vegetation*, online,¹⁶⁸ and is the California expression of the National Vegetation Classification.¹⁶⁹ CDFW's Natural Communities List is developed and maintained by CDFW's **Vegetation Classification and Mapping Program (VegCAMP)**¹⁷⁰ and replaces all other lists of terrestrial natural communities

¹⁶⁵ Fish & G. Code, § 1854, subdivision (b)

¹⁶⁶ Fish & G. Code, § 1852, subdivision (c)(14)

¹⁶⁷ California Department of Fish and Game. *List of Vegetation Alliances and Associations*. Vegetation Classification and Mapping Program. Sacramento, CA. Available: <https://www.wildlife.ca.gov/Data/VegCAMP/Natural-Communities/List>.

¹⁶⁸ <https://vegetation.cnps.org/search?>

¹⁶⁹ https://www.fgdc.gov/standards/projects/FGDC-standards-projects/vegetation/NVCS_V2_FINAL_2008-02.pdf

¹⁷⁰ <https://www.wildlife.ca.gov/Data/VegCAMP>

and vegetation types previously developed for the **California Natural Diversity Database (CNDDDB)**.

The list is updated one to two times per year to incorporate updated vegetation community information and rarity ranks. To ensure the RCIS is using the current list, the RCIS proponent shall check for the most recent version of the list, associated vegetation descriptions, and any recent updates specific to the RCIS area. Any vegetation maps and other information developed for an RCIS shall use this classification system and follow the Survey of California Vegetation (SCV) standards.¹⁷¹ If the RCIS area has not been mapped to SCV standards, proponents shall contact VegCAMP to determine the best readily available vegetation map.¹⁷²

If another prevalent vegetation classification is commonly used in the RCIS area, the RCIS proponent may choose to use it as the primary vegetation classification for the RCIS. For example, if an approved or draft NCCP or regional HCP overlaps the RCIS area, the RCIS proponent may use that NCCP's or HCP's vegetation classification system. However, if the RCIS incorporates a vegetation classification that differs from the Manual of California Vegetation, online, the RCIS shall include a crosswalk between the classifications to help ensure consistency between the RCISs throughout California.

4.3.7.2 Aquatic Resources

The RCIS shall use the best available data sources to assess inland, coastal marine, and other aquatic resources. These may include the **Areas of Conservation Emphasis (ACE)** Aquatic Biodiversity dataset,¹⁷³ USGS topographic maps, local wetland delineation reports, USFWS National Wetlands Inventory,¹⁷⁴ the State Water Resources Control Board's marine Areas of Special Biological Significance,¹⁷⁵ California's network of Marine Protected Areas,¹⁷⁶ sea level rise mapping and other climate change adaptation planning documents (see Section 4.3.7.7 – Climate Change Risk and Resilience), the most up-to-date list of California's Impaired Water Bodies

¹⁷¹ <https://www.wildlife.ca.gov/Data/VegCAMP/Mapping-Standards>

¹⁷² <https://www.wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Other-Info>

¹⁷³ <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=150856&inline>

¹⁷⁴ <https://www.fws.gov/wetlands/>

¹⁷⁵ http://www.waterboards.ca.gov/water_issues/programs/ocean/asbs_map.shtml

¹⁷⁶ <https://www.wildlife.ca.gov/Conservation/Marine/MPAs>

(i.e., Clean Water Act section 303(d) List/ 305(b) Report),¹⁷⁷ and the California Ocean Protection Council's resources.¹⁷⁸

4.3.7.3 Species Information and List Development

For information regarding focal species, non-focal species, and other conservation elements, the RCIS proponent shall use the best available scientific information, including information published by CDFW, USFWS, and other peer-reviewed sources. CDFW resources may include species listing or status review reports, information available in BIOS, approved NCCPs that overlap the RCIS area, and the current version of SWAP and the companion plans. Data vary throughout the state, and the most current, detailed, available and scientifically supported data shall be used.

As outlined in Section 4.3.5.1, a preliminary species list must be developed using the best available scientific information. The preliminary list is then refined to create the final focal and non-focal, if applicable, species lists. Resources that should be used to create the preliminary species list include the following:

- a. Plant or animal species that are listed under CESA as endangered or threatened or are candidates for listing;¹⁷⁹
- b. California Fully Protected Animals;¹⁸⁰
- c. Plant and animal species that are listed under the federal Endangered Species Act, or are proposed for listing or are a candidate for listing as endangered or threatened;¹⁷⁹
- d. CDFW **Animal Species of Special Concern (SSC)**;¹⁸¹
- e. Additional species identified by the CNDDDB special plants and special animal lists;¹⁸²

¹⁷⁷ http://www.waterboards.ca.gov/water_issues/programs/tmdl/303d_lists2006_epa.shtml

¹⁷⁸ <http://www.opc.ca.gov/2012/06/coastal-and-ocean-impacts-from-land/>

¹⁷⁹ California Department of Fish and Wildlife, Biogeographic Data Branch. October 2017. *State & Federally Listed Endangered & Threatened Animals of California*. Available:

<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109405&inline>. California Department of Fish and Wildlife, Biogeographic Data Branch. October 2017. *State & Federally Listed Endangered, Threatened, and Rare Plants of California*. Available: <http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109390&inline>.

¹⁸⁰ http://www.dfg.ca.gov/wildlife/nongame/t_e_spp/fully_pro.html

¹⁸¹ <https://www.wildlife.ca.gov/Conservation/SSC>

¹⁸² California Department of Fish and Wildlife, California Natural Diversity Database (CNDDDB). October 2017. *Special Vascular Plants, Bryophytes, and Lichens List*. Available:

- f. SGCN lists in the current version of SWAP;¹⁸³
- g. Species specially protected under the California Wildlife Protection Act of 1990 (mountain lion);¹⁸⁴
- h. Species formally listed by the US Forest Service as a Sensitive Species¹⁸⁵ or a Management Indicator Species; species formally listed by the US Fish and Wildlife Service as a Bird of Conservation Concern;¹⁸⁶ animal and plant species listed by the US Bureau of Land Management as sensitive;¹⁸⁷ and other species identified by a state or federal agency as having special status.
- i. Native game species managed under CDFW's Game Management Programs;¹⁸⁸
- j. The Complete List of Amphibian, Reptile, Bird, and Mammal Species in California;¹⁸⁹

In addition, lists of terrestrial vertebrates can be generated by queries of the **California Wildlife Habitat Relationships (CWHR)** Program.¹⁹⁰ The CWHR contains life history, geographic range, and habitat suitability information for regularly occurring species of amphibians, reptiles, birds, and mammals in the state. The CWHR allows users to produce queries to generate lists of species by geographic location (i.e., county, ecoregion, CalWater Hydrologic Region, or National Forest) and/or by habitat type and provides information on expert opinion–based habitat suitability ranks for each species within each habitat type.

<http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline>. California Department of Fish and Wildlife, California Natural Diversity Database (CNDDDB). October 2017. *Special Animals List*. Available:

<http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406&inline>.

¹⁸³ California Department of Fish and Wildlife. 2015. *California State Wildlife Action Plan, 2015 Update: A Conservation Legacy for Californians Appendix C: Species of Greatest Conservation Need*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109224&inline>.

¹⁸⁴ <https://www.wildlife.ca.gov/Conservation/Mammals/Mountain-Lion>

¹⁸⁵ USDA Forest Service sensitive animal species lists. Available: <https://www.fs.usda.gov/main/r5/plants-animals/wildlife>. USDA Forest Service sensitive plant species lists. Available: <https://www.fs.usda.gov/main/r5/plants-animals/plants>.

¹⁸⁶ <https://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>

¹⁸⁷ <https://www.blm.gov/ca/dir/pdfs/2010/im/CAIM2010-008ATT1.pdf> and <https://www.blm.gov/ca/dir/pdfs/2010/im/CAIM2010-008ATT2B.pdf>

¹⁸⁸ <https://www.wildlife.ca.gov/Explore/Organization/WLB/Game-Management>

¹⁸⁹ California Department of Fish and Wildlife, California Wildlife Habitat Relationships Program. May 2016. *Complete List of Amphibian, Reptile, Bird and Mammal Species in California*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=87155&inline>.

¹⁹⁰ <https://www.wildlife.ca.gov/Data/CWHR>

A list of species by ACE hexagon (terrestrial species) and by **watershed** (aquatic species) can be queried in ACE by using the ACE Terrestrial Species List (ds2700) and ACE Aquatic Species List (ds2740). The ACE species lists include predicted species presence by hexagon based on both models and observation data. The ACE species lists indicate species status including Rare (listed or SGCN), Endemic, Climate Vulnerable, SGCN, and Game.

4.3.7.4 Distribution of Focal Species and Natural Communities

The RCIS shall identify and describe the distribution of focal species and natural communities using the following information:

- a. Geospatial information on the distribution of the focal species in the RCIS area. The CWHR¹⁹¹ contains life history, geographic range, and habitat relationship information on regularly occurring species of amphibians, reptiles, birds, and mammals in the state. The CWHR can be used to generate lists of species by geographic location (i.e., county, ecoregion, CalWater Hydrologic Region, or National Forest) and/or by habitat type. The CWHR provides 1) geographic range data representing the maximum, current (within the past 20 years) extent of a species distribution for most regularly occurring vertebrates in the state and 2) predicted habitat distributions, showing areas of potentially suitable habitat within each species' range based on CWHR habitat suitability ranks. The BIOS spatial data catalog¹⁹² includes additional geospatial information on the distributions of wildlife species (e.g., occurrence location data and species distribution models).
- b. Geospatial information on the special-status species. Reported information on the distribution of many of these species is available through, but not limited to, the CNDDDB program and BIOS map viewer from CDFW's Biogeographic Data Branch.¹⁹³ The CNDDDB is an inventory of GIS-mapped occurrence locations of special species in California. BIOS is CDFW's data catalogue of spatial data, including other species observation, distribution, and habitat datasets (e.g., USFWS critical habitat datasets, fish distribution maps for some salmonids).
- c. While not required, the RCIS may incorporate existing species distribution models published by CDFW or in peer-reviewed literature or developed

¹⁹¹ <https://www.wildlife.ca.gov/Data/CWHR>

¹⁹² The BIOS spatial data catalog can be searched by species name or searched spatially by location. Available: <https://www.wildlife.ca.gov/Data/BIOS>.

¹⁹³ <https://www.wildlife.ca.gov/Explore/Organization/BDB>

specifically for the RCIS. If new models are developed for an RCIS, the RCIS shall include a description of methods and data sources used and shall report model confidence as outlined in NatureServe's Habitat Model Standard.¹⁹⁴ The assessment of model confidence may include both statistical measures and species expert review, and the results of the model confidence assessment shall support the appropriate use of the model in an RCIS (see Habitat Model Standard, section 3.3 Assignment of Confidence Scores). All new data (e.g., new occurrence information, maps and other model output) must be submitted to CDFW as indicated in Section 4.4 – Data Management, Sharing, and Access.

- d. Lists of rare natural communities or other high-priority natural communities¹⁹⁵ that occur within the RCIS area. Information on the distribution and mapped locations of rare or other high-priority natural communities is available through, but not limited to, SCV vegetation maps and survey points, the CNDDDB program, and the ACE Significant Habitats dataset.
- e. Information on the RCIS's focal species, natural communities, or other conservation elements from any NCCPs that overlap the RCIS area.

4.3.7.5 Biodiversity Information

The RCIS proponent may choose to identify and summarize areas of high biological value within an RCIS area, which may be useful in selecting priority locations for actions. Biodiversity information across California can be found in the most recent version of ACE.¹⁹⁶ ACE is a compilation and analysis of the best available statewide spatial information on California's biological richness, including species diversity, rarity, and endemism. In addition to ACE, RCIS proponents may use other local or regional resources, as available. The ACE datasets identify and map the following relative to biodiversity:

- a. Native species richness, which represents overall native diversity of all species in the state, both common and rare;
- b. Rare species richness, which represents diversity of rare species;
- c. Irreplaceability, which is a weighted measure of endemism.

¹⁹⁴ NatureServe. 2021. A species habitat model standard for the NatureServe Network. NatureServe: Arlington, VA. Available: link will be added here prior to finalizing the Guidelines

¹⁹⁵ <https://www.wildlife.ca.gov/Data/VegCAMP/Natural-Communities>

¹⁹⁶ <https://www.wildlife.ca.gov/Data/Analysis/ACE>

4.3.7.6 Habitat Connectivity

Habitat connectivity is a critical consideration when evaluating the location and association of protected lands within an RCIS. It is important in determining how to maintain sustainable populations and gene pools and how to provide for wildlife movement at different scales. Wildlife movement includes daily movements to find food, shelter, and mates; dispersal by young to find new territories; seasonal migration; and movement in response to climate change. An RCIS should use habitat connectivity data and information including, but not limited to:

- a. The **California Essential Habitat Connectivity Project (CEHC)**,¹⁹⁷ a statewide assessment of essential habitat connectivity. The project identified large remaining blocks of intact, contiguous natural habitat (natural landscape blocks) and modeled linkages (essential connectivity areas) between them to best maintain habitat connectivity across the landscape. ACE data includes CEHC.
 - Natural Landscape Blocks identify remaining intact lands across the state, independent of ownership. These lands contribute to habitat connectivity and are expected to have high conservation and climate resilience value because of their size, intactness, and connectedness with other natural habitats. Although the CEHC only used large natural landscape blocks (greater than 2,000 acres) due to the statewide nature of its analysis, smaller landscape blocks were identified and should be used for evaluating connectivity at a regional scale.¹⁹⁸
 - Modeled Linkages, or Essential Connectivity Areas, represent coarse scale, generalized habitat connections between natural landscape blocks. These connections provide a broad-scale view of habitat connectivity needs at the statewide scale, but they should be supplemented with or superseded by fine-scale connectivity analyses at a regional scale, when available.
- b. ACE dataset on the spatial evaluation of the relative contribution of an area to terrestrial connectivity.¹⁹⁹

¹⁹⁷ <https://www.wildlife.ca.gov/conservation/planning/connectivity/CEHC>

¹⁹⁸ This data is available in BIOS as two layers: "Natural Landscape Blocks" shows blocks that are more than 2,000 acres in size, and "Natural Areas Small" shows blocks that are less than 2,000 acres in size. Available: <https://www.wildlife.ca.gov/Data/BIOS>.

¹⁹⁹ California Department of Fish and Wildlife, Biogeographic Data Branch. February 2018. *ACE Dataset Fact Sheet; Terrestrial Connectivity*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=150835&inline>.

- c. Regional, fine-scale connectivity analyses include refinements of the CEHC at a regional scale using finer-scale datasets and based on species' movement needs. They may also include different methods applied regionally. Regional, fine-scale connectivity analyses have been or may in the future be completed for several ecoregions in the state. When such scientifically based regional connectivity analyses are readily available, these spatial datasets²⁰⁰ and project reports²⁰¹ should be used by an RCIS. These datasets can be used to identify overall fine-scale habitat connections within or through an ecoregion, as well as critical movement corridors for individual species that may be of high priority for conservation.
- d. CDFW's *Guidance for Fine-Scale Wildlife Connectivity Analysis*²⁰² is a report that provides guidance to complete a fine-scale wildlife connectivity analysis that meets CDFW standards. The report includes information on species selection criteria and landscape block identification and details the model development process using examples from CDFW's case study analysis of wildlife connectivity across the northern Sierra Nevada foothills that was conducted after the completion of the CEHC project. RCIS proponents are not required to develop a fine-scale connectivity analysis; however, if RCIS proponents choose to develop this type of analysis, CDFW's guidance should be used. RCIS proponents must submit a description of the modeling process, methods, and metadata that meet CDFW's minimum metadata standards, and model reviews by recognized species experts (see also, Section 4.4 – Data Management, Sharing, and Access).
- e. Fish Passage Assessment Database²⁰³ and/or CDFW Fisheries Branch list of priority fish barriers.²⁰⁴ The Fish Passage Assessment Database is an ongoing inventory of known and potential barriers to anadromous fish in California. It compiles currently available fish passage information from more than two hundred data sources and allows past and future barrier assessments to be standardized and stored in one place. The inventory

²⁰⁰ Available in BIOS: <https://www.wildlife.ca.gov/Data/BIOS>.

²⁰¹ <https://www.wildlife.ca.gov/Conservation/Planning/Connectivity>

²⁰² California Department of Fish and Wildlife, Biogeographic Data Branch. December 2014. *Guidance Document for Fine-Scale Wildlife Connectivity Analysis*. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=93018&inline>.

²⁰³ <https://nrm.dfg.ca.gov/PAD/>

²⁰⁴ Currently, the most recent list is from 2021. Available: <https://apps.wildlife.ca.gov/bios/?al=ds2970>. For future updates to this list, enter "Fish Passage Priorities" into the BIOS search bar.

may be used to identify barriers suitable for removal or modification to restore access to spawning and rearing habitat. Contact CDFW Fisheries Branch for their list of priority fish barriers in the RCIS area.

- f. CDFW's Wildlife Movement Barrier Priorities Dataset depicts segments of linear infrastructure (roads, railroads, canals, etc.) that have been identified as high priority barriers to terrestrial wildlife movement by biologists in CDFW Regions 1-6 and includes a list of high-priority focal species for each segment. The barrier priorities dataset is updated on a regular basis to reflect shifts in regional priorities as remediation efforts are implemented and new barriers are identified.

Links to spatial data associated with many of the datasets described above can also be found in the CDFW Habitat Connectivity Viewer.²⁰⁵

4.3.7.7 Climate Change Risk and Resilience

The RCIS shall incorporate existing available, science-based analyses and information to identify climate change vulnerability of the RCIS focal species and natural communities, exposure of the RCIS area to climate change (e.g., projected changes in temperature and precipitation, sea level rise, drought, wildfire risk), and areas that may be resilient to the impacts of climate change, to inform adaptation strategies for the RCIS. The climate vulnerability information assembled for the RCIS should include climate change threats at mid-century (2050) and end-of-century (2100) for both a hotter and drier future climate scenario and a warmer and wetter future climate scenario where possible. The future climate scenarios used in existing studies may vary, and these differences and their implications should be explicitly indicated and addressed in the RCIS.

Climate science and modeling is a rapidly evolving field, and the best available, most current scientifically-based information should be consulted and cited for each RCIS. For all new analyses, global climate models selected for the state's most recent California Climate Change Assessment²⁰⁶ should be used. For information on climate vulnerability of California species and habitats and links to associated datasets, please refer to CDFW's climate change vulnerability assessment website.²⁰⁷ This website provides relevant

²⁰⁵ <https://apps.wildlife.ca.gov/bios/?bookmark=648>

²⁰⁶ <https://www.climateassessment.ca.gov/>

²⁰⁷ <https://www.wildlife.ca.gov/Conservation/Climate-Science/Resources/Vulnerability>

resources that will aid proponents in developing the RCIS. An RCIS shall be informed by:

- a. Climate change projections developed for California as presented by Cal-Adapt.²⁰⁸ Cal-Adapt may be used to identify projected changes in temperature, precipitation, streamflow, snowpack, sea level rise, wildfire, and drought, at multiple timescales and across a range of greenhouse gas emissions scenarios and climate models.
- b. Lists of climate-vulnerable species and natural communities developed or supported by CDFW, for example, those recognized under the climate vulnerability assessments for vegetation,²⁰⁹ birds, mammals, reptiles, amphibians, fish, and plants in California and the current version of SWAP (Criteria 3 in the SGCN list of SWAP 2015).²¹⁰ A list of climate vulnerable species, as identified in SWAP, can be queried by hexagon using ACE.
- c. Other factors that may contribute to climate resilience such as diverse land facets²¹¹ (geophysical features expected to support biodiversity in a changing climate) and high levels of connectivity (corridors to facilitate movement as species and their habitats move in response to climate change). Where available, data or information should be included that demonstrate how land facets and/or corridors within the RCIS area may promote climate resilience.
- d. Geospatial information on climate exposure with respect to species, including projected range-shift models for wildlife species developed for CDFW climate vulnerability analyses, where available.
- e. Geospatial information on landscape-scale climate exposure, such as:
 - High-climate-exposure natural community areas as identified by the Climate Change Vulnerability Assessment of California's Terrestrial Vegetation.²⁰⁹ These represent habitats that are expected to experience major changes in composition, such as type conversion, due to changes in temperature and water availability.

²⁰⁸ <http://cal-adapt.org/>

²⁰⁹ Thorne, J.H., R.M. Boynton, A.J. Holguin, J.A.E. Stewart, & J. Bjorkman. (2016) *A climate change vulnerability assessment of California's terrestrial vegetation*. California Department of Fish and Wildlife (CDFW), Sacramento, CA. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=116208&inline>

²¹⁰ California Department of Fish and Wildlife. 2015. *California State Wildlife Action Plan, 2015 Update: A Conservation Legacy for Californians*. Appendix C: Species of Greatest Conservation Need. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109224&inline>.

²¹¹ https://www.conservationgateway.org/ConservationByGeography/NorthAmerica/UnitedStates/oregon/science/Documents/PNW_Terrestrial_Climate_Resilience_Report_March3_2015.pdf

- Coastal areas expected to be impacted by sea level rise. Tools such as Cosmos,²¹² CalAdapt,²¹³ the NOAA Sea Level Rise viewer,²¹⁴ the Coastal Conservancy's Climate Ready Program,²¹⁵ California's Climate Change web page on coastal and ocean resources,²¹⁶ and the Conserving California's Coastal Habitat's assessment by The Nature Conservancy and the California Coastal Conservancy²¹⁷ may assist in identifying stressors associated with sea level rise.
- f. Geospatial information on landscape-scale climate resilience, such as climate-resilient natural community areas, representing habitats expected to remain stable in the face of climate change (i.e., potential climate refugia). See ACE datasets on the probability that a given location within California will serve as refugia under climate change.
- g. Other available, science-based analyses and information to identify exposure of the RCIS area to climate change, climate-vulnerable resources in the RCIS, and areas that may be resilient to the impacts of climate change.

For assistance translating climate science and vulnerability information to adaptation strategy and action, consider using the Resist-Accept-Direct framework,²¹⁸ the USGS guide for integrating climate change into natural resource planning,²¹⁹ or other relevant guidelines and decision frameworks. The California Adaptation Clearinghouse²²⁰ can be referenced for examples of biodiversity-related adaptation case studies.

212 https://walrus.wr.usgs.gov/coastal_processes/cosmos/

213 <http://cal-adapt.org/sealevel/>

214 <https://coast.noaa.gov/slr/beta/#/layer/slr>

215 http://scc.ca.gov/climate_change/

216 http://www.climatechange.ca.gov/adaptation/coast_and_oceans.html

217 Heady, W. N. et. al. 2018. Conserving California's Coastal Habitats: A Legacy and a Future with Sea Level Rise. The Nature Conservancy, San Francisco, CA; California State Coastal Conservancy, Oakland, CA. Available: https://www.conservationgateway.org/ConservationPractices/Marine/crr/library/Documents/TNC_SCC_Coastal_Assessment_lo%20sngl.pdf

218 <https://www.nps.gov/subjects/climatechange/resistacceptdirect.htm> or <https://www.nps.gov/subjects/climatechange/radframework.htm>

219 <https://pubs.er.usgs.gov/publication/tm6C2>

220 <https://resilientca.org/>

4.3.7.8 Invasive Species

RCIS proponents shall include invasive species within the RCIS area as a pressure or stressor to focal species and other conservation elements. Information is available from CDFW's Invasive Species Program,²²¹ California Department of Food and Agriculture,²²² Invasive Species Council of California,²²³ California Invasive Plant Council online inventory,²²⁴ and county agricultural commissioner offices.²²⁵

4.3.7.9 Gaps in Scientific Information

The RCIS shall provide a brief description of gaps in relevant scientific information²²⁶ that may not allow for a full analysis of the conservation elements or that may result in uncertainties in any portion of the RCIS. Some examples of potential scientific information gaps include key ecological information, distribution information, or management uncertainties for focal species, non-focal species, or other conservation elements. When lack of data is used as a criterion for not including a species as a focal or non-focal species (see Section 4.3.5.1 for information about the species selection process), the information needed for that species should be noted as a scientific gap.

4.3.8 Additional Requirements to Create MCAs

For actions identified in an RCIS to be eligible for creating mitigation credits through an MCA, the RCIS shall also include the items in the list below. If any of these items are missing, the RCIS must be amended before an MCA could be developed.

- a. An outline for **adaptive management and monitoring** of conserved habitat and other conserved natural resources consistent with the goals and objectives for focal species and other conservation elements in the RCIS. The outline shall guide the preparation of, and consistency among, monitoring and long-term adaptive management plans required in

²²¹ <https://www.wildlife.ca.gov/Conservation/Invasives>

²²² <http://www.cdfa.ca.gov/plant/>

²²³ <http://www.iscc.ca.gov/species.html>

²²⁴ <http://www.cal-ipc.org/plants/inventory/>

²²⁵ http://www.cdfa.ca.gov/exec/county/county_contacts.html

²²⁶ Fish & G. Code, § 1852, subdivision (c)(14)

MCAs.²²⁷ The outline should indicate minimum requirements that are consistent with CDFW's MCA Guidelines and MCA Template.

- b. A process for **MCA sponsors** to provide information to the RCIS proponent to allow the RCIS proponent to track the progress of, and evaluate the effectiveness of, the RCIS actions in achieving the goals and objectives for focal species and other conservation elements, including offsetting the effects of identified pressures and stressors.²²⁸

Tracking and evaluation shall be based on relevant, current, best available information and analyses, including but not limited to, information reported under monitoring and long-term adaptive management and monitoring plans required of MCAs. The tracking and evaluation shall begin upon the creation of the first mitigation credit under an established MCA. Tracking shall begin upon the creation of the first MCA credit developed under the RCIS. However, the evaluation should occur, and a report submitted to CDFW, no earlier than one year before the expiration of the RCIS. The evaluation report is required before CDFW can extend the duration of an RCIS.²²⁹

- c. Identification of either the RCIS proponent or another public or private entity that has agreed to be responsible for evaluating and reporting on the effectiveness of achieving the RCIS's goals and objectives.²³⁰ In the event that the responsible entity identified in the RCIS is not available for these tasks, another entity, with approval from CDFW, can elect to take responsibility.

4.4 Data Management, Sharing, and Access

RCIS proponents are encouraged to consult with CDFW RCIS Program staff when developing a plan for data management during the RCISs development and approval period.

All data, models, and other tools used for or created for the RCIS shall be readily available to potential users, including MCA sponsors, and shall not depend upon the acquisition of proprietary data, software, or licenses. If an

²²⁷ Fish & G. Code, § 1856, subdivision (b)(1)

²²⁸ Fish & G. Code, § 1856, subdivision (b)(2)(A)

²²⁹ Fish & G. Code, § 1856, subdivision (b)(2)(B)

²³⁰ Fish & G. Code, § 1856, subdivision (b)(3)

RCIS proponent wishes to use proprietary data or models not readily available to the public, the proponent shall confer with CDFW.

All spatial and non-spatial data created during RCIS development (e.g., new occurrence information, maps, and other model output) shall be submitted to CDFW via a File Transfer Protocol (FTP) site upon submission of the draft document for CDFW review. The RCIS proponent shall compile spatial input and summary data in an industry-standard (Environmental Systems Research Institute [ESRI]-readable) geospatial format²³¹ and include metadata that meets CDFW's minimum metadata standards.²³² If needed, the RCIS proponent may request that CDFW provide a link to the FTP site, which will remain active for approximately two weeks. CDFW may incorporate these data into one or more of its web portals or, at a minimum, will make the data sets available to the public upon request.

RCIS proponents may also choose, in addition, to upload this information onto another (non-CDFW) web portal for interactive use to allow all interested parties to generate queries of regional conservation values within the RCIS area. The web portal should clearly display the process-related steps used to compile, develop, and derive RCIS information. All spatial data included in the web portal shall have metadata meeting CDFW's minimum metadata standards and be available for download in an industry-standard geospatial format. Examples of an interactive platform include the Desert Renewable Energy Conservation Plan Gateway portal²³³ and the Bay Area Conservation Lands Network Explorer Tool.²³⁴

All spatial and non-spatial data created from implementing the RCIS's actions shall be provided to CDFW and the RCIS proponent.

4.5 RCIS Development, Review, and Approval Process

Fish and Game Code section 1854 specifies tasks that the RCIS proponent or CDFW must complete during RCIS development, review, and approval phases. This section provides guidance on the responsibilities, timing, and requirements for each of these tasks. Figure 1 provides a flowchart to help

²³¹ Fish & G. Code, § 1852, subdivision (d)

²³² <https://wildlife.ca.gov/Data/BIOS/Metadata>

²³³ Desert Renewable Energy Conservation Plan (DRECP) Gateway: <https://drecep.databasin.org>

²³⁴ <http://www.bayarealands.org/explorer/>

orient RCIS proponents with the development, review, and approval process; however, RCIS proponents should refer to Fish and Game Code section 1854 and the following subsections of these Guidelines for the detailed requirements. All steps of the process described below apply to both original RCISs and complex amendments to RCISs (see Section 4.6 for more information about amending an RCIS).

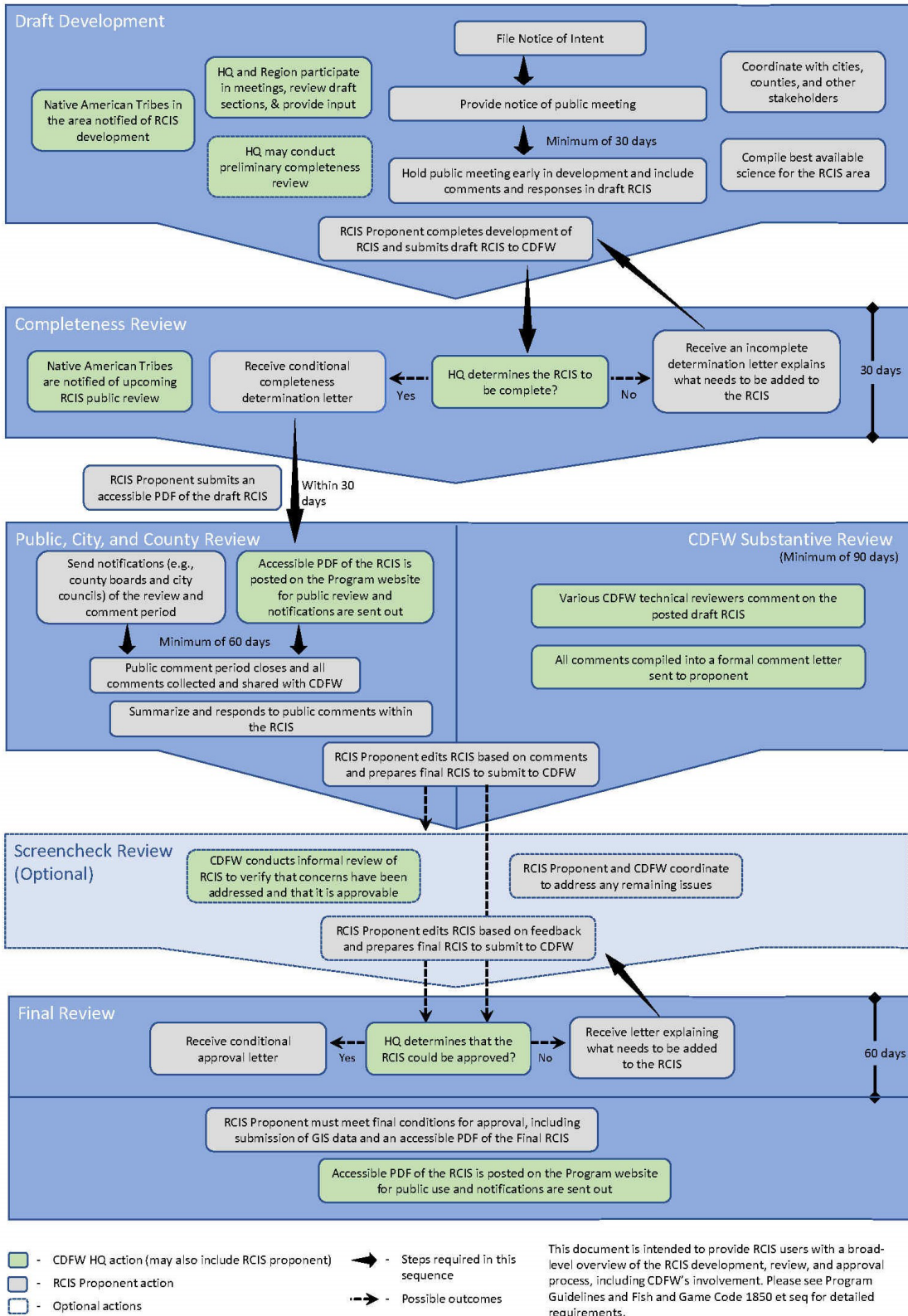


Figure 1. Process for Regional Conservation Investment Strategy Development, Review, and Approval

4.5.1 Pre-Submittal Steps

The development of an RCIS is meant to be a collaborative process between the RCIS proponent, CDFW, cities and counties, a range of other stakeholders, and the public. This section provides an overview of the RCIS proponent's minimum responsibilities for notifying and/or inviting stakeholders and the public to participate during the RCIS development. All of the following tasks that are indicated as required must be completed prior to submitting a draft RCIS to CDFW for formal completeness review.

4.5.1.1 Consultation with Stakeholders

The RCIS must consider existing and reasonably foreseeable land uses, including major infrastructure (see Section 4.3.4.1). To ensure this, an RCIS shall be developed after consulting with local agencies that have land use authority (i.e., cities and counties) within the geographic area of the RCIS.²³⁵ Consultation with each local public agency with land use authority shall include, at a minimum, notification prior to or concurrent with filing the Notice of Intent (see Section 4.5.1.2) and an invitation to participate in the development process.

An RCIS must also be consistent with NCCPs, HCPs, recovery plans, and RCAs within the RCIS area (see Section 4.3.4.5). To achieve consistency and compatibility with NCCPs and HCPs, CDFW recommends that an RCIS be developed in consultation with NCCP and HCP Implementing Entities within the geographic area of the RCIS.

CDFW strongly recommends early and ongoing coordination and collaboration with CDFW's RCIS Program staff within HCPB and applicable regional offices when developing an RCIS. This will allow for early feedback on the various components (e.g., conservation elements, level of detail needed, sources for the best available scientific information) and typically results in a quicker formal review with less extensive comments.

CDFW recommends including a public or stakeholder engagement process in the development of an RCIS to foster collaborative engagement with individuals and entities with relevant experience and expertise. For example, a technical review team knowledgeable of ecological information and conservation needs can help to ensure that the best available scientific

²³⁵ Fish & G. Code, § 1852, subdivision (a)

information is used. Agencies and entities that an RCIS proponent should consider consulting with include, but are not limited to, the following:

- a. Species and resource experts at various federal, state, and local agencies; nonprofits; and universities;
- b. Entities in the process of developing a draft NCCP that overlaps with or is adjacent to the RCIS area;
- c. Proponents of other overlapping conservation or mitigation plans that are in development;
- d. Agencies and entities that are likely to have mitigation needs within the 10-year duration of the RCIS;
- e. Native American Tribes with cultural interests in the RCIS area;
- f. Regulatory agencies that have jurisdiction over regulated natural resources within or adjacent to the RCIS area;
- g. **RCA proponents** in the process of developing a draft RCAs that overlap with, or are adjacent to, the RCIS area;
- h. Local public agencies with land use authority (i.e., cities and counties) adjacent to or near the proposed RCIS area;
- i. RCIS proponents with draft or approved RCISs adjacent to the RCIS area; and
- j. MCA sponsors with draft or approved MCAs adjacent to or near to the RCIS area;

4.5.1.2 Notice of Intent

The RCIS proponent shall publish a notification of its intent to create an RCIS by filing a Notice of Intent (NOI) with the Governor's Office of Planning and Research and the county clerk of each county that the RCIS area overlaps, in part or in whole.²³⁶ The NOI shall be filed as early in the development process as possible and a copy of the NOI shall be emailed to the [RCIS Program email address](#).²³⁷ Additionally, a copy of the NOI shall be included in the draft and final RCISs submitted to CDFW for formal review and approval.

²³⁶ Fish & G. Code, § 1854, subdivision (c)(1). If the RCIS proponent began preparation of the RCIS prior to January 1, 2017, the NOI is not required.

²³⁷ rcis@wildlife.ca.gov

4.5.1.3 Public Meeting

The RCIS proponent shall hold at least one public meeting within or near the RCIS area.²³⁸ The public meeting shall be held within the county, or one of the counties, in which the RCIS is located, in whole or in part. The purpose of the public meeting is to provide interested persons and entities with meaningful information about the RCIS effort and to solicit input that may inform the development of the RCIS. Therefore, a public meeting shall be held early in the development process, but after the NOI has been filed. The RCIS proponent may also choose to hold additional online or in-person public meetings.

At least 30 days before holding any public meeting, the RCIS proponent shall provide notice of the public meeting as follows:

- a. To CDFW via email at the [RCIS Program email address](#);²³⁹
- b. On the RCIS proponent's internet website and any relevant LISTSERV;²⁴⁰
- c. To each city and county within or adjacent to the RCIS area (CDFW recommends sending the notification to the city and county clerks);²⁴¹
- d. To the **implementing entity** for each NCCP or federal regional HCP that overlaps the RCIS area;²⁴²
- e. To each public agency, organization, or individual who has filed a written request for the notice, including any agency, organization, or individual who has filed a written request to CDFW for notices of all RCIS public meetings.²⁴³ CDFW will provide a list of these entities to the RCIS proponent upon written request via email at the [RCIS Program email address](#).²³⁹

The RCIS proponent shall provide an adequate opportunity for interested persons and entities to provide comments. At a minimum, the draft RCIS shall include copies of and responses to written comments submitted during the

²³⁸ Fish & G. Code, § 1854, subdivision (c)(2)(A). If the RCIS proponent began preparation of the RCIS prior to January 1, 2017 and held a public meeting that meets the requirements set forth above prior to January 1, 2017, no further public meeting is required.

²³⁹ rcis@wildlife.ca.gov

²⁴⁰ Fish & G. Code § 1854, subdivision (c)(3)(A)

²⁴¹ Fish & G. Code § 1854, subdivision (c)(3)(B)

²⁴² Fish & G. Code § 1854, subdivision (c)(3)(C)

²⁴³ Fish & G. Code § 1854, subdivision (c)(3)(D)

public meeting(s).²⁴⁴ The RCIS proponent may also choose to include and respond, in the RCIS, to oral comments received during the public meeting. The RCIS proponent must provide instructions on when and how public meeting comments must be submitted to be considered in the draft RCIS.

All comments submitted, for the purpose of consideration in the RCIS, during public meeting(s) shall be included in a section or appendix of the draft RCIS submitted to CDFW for formal review and shall include the full original comment, a summary of each comment, and the RCIS proponent's response. If edits were made to the RCIS as a result of the comment, the RCIS proponent's response must include a description of how the comment was addressed in the RCIS.

4.5.2 Submission and Review of the Draft RCIS

A draft RCIS submitted to CDFW shall contain all of the information required by Fish and Game Code section 1852(c) and these Guidelines. See Section 4.5.1.3 – Public Meeting, for requirements to incorporate public comments in the draft RCIS.

4.5.2.1 Completeness Review

Once the RCIS proponent submits a complete draft RCIS package to CDFW, CDFW shall have thirty (30) days within which to deem the draft RCIS complete or to explain in writing to the RCIS proponent what additional information is required to complete the draft RCIS.²⁴⁵ If deemed incomplete, the RCIS proponent may incorporate all of the missing information, as indicated in CDFW's letter, and resubmit for another 30-day completeness review. CDFW will deem the draft RCIS complete if the RCIS provides information in response to each of the required elements and sub-elements listed in Fish and Game Code section 1852(c) and Section 4 of these Guidelines.

Please note, a determination that an RCIS is complete does not indicate that the draft RCIS contains all information necessary for CDFW to approve it as a final RCIS. During CDFW's substantive review, CDFW will review the submittal for accuracy and adequacy and may identify additional information the RCIS will need before CDFW can approve it as a final RCIS. CDFW encourages early and ongoing comprehensive communication and

²⁴⁴ Fish & G. Code, § 1854, subdivision (c)(2)(B)

²⁴⁵ Fish & G. Code, § 1854, subdivision (c)(4)

coordination with CDFW and other stakeholders as it typically reduces the extent of comments CDFW provides during the completeness and substantive reviews.

4.5.2.2 Public Review

Within thirty (30) days of deeming the RCIS complete, CDFW shall initiate public review by posting the draft RCIS and instructions public comment submission on [CDFW's RCIS Program website](#)²⁴⁶ for public review and comment.²⁴⁷ Prior to posting this document, the RCIS proponent must provide CDFW with an electronic PDF version of the RCIS that is edited for web accessibility (see Section 1.5 for accessibility requirements). CDFW shall send an email notification to announce the availability of the draft RCIS to any public agency, organization, or individual who has filed a written request to CDFW to receive such notifications.²⁴⁷ The notification will also include the instructions for submitting public comments to CDFW and the RCIS proponent. Concurrent with CDFW's notification, the RCIS proponent shall also send a similar email to the RCIS proponent's own relevant LISTSERV to provide notification of the public review period.

Depending on the scope, length, and complexity of the draft RCIS, CDFW will determine an appropriate public review and comment period, provided that the public review and comment period shall extend for at least sixty (60) days after posting of the draft RCIS on [CDFW's RCIS Program website](#).²⁴⁶

After the close of the public review and comment period, CDFW and the RCIS proponent shall verify that both agencies have copies of all public comments received on the draft RCIS.

4.5.2.3 Review by Cities and Counties

Within thirty (30) days of CDFW deeming the draft RCIS complete, and concurrent with the public review period, the RCIS proponent shall provide written notification of the draft RCIS to the boards of supervisors and the city councils in each county within which the RCIS is located in whole or in part. CDFW recommends sending the notification to the city and county clerks. The RCIS proponent shall provide those entities at least sixty (60) days in which to submit written comments regarding the draft RCIS.²⁴⁸

²⁴⁶ <https://www.wildlife.ca.gov/Conservation/Planning/Regional-Conservation>

²⁴⁷ Fish & G. Code, § 1854, subdivision (c)(4)

²⁴⁸ Fish & G. Code, § 1854, subdivision (c)(5)

After the close of the city and county review and comment period, CDFW and the RCIS proponent shall verify that both agencies have copies of all comments received from the cities and counties on the draft RCIS.

4.5.2.4 CDFW Substantive Review

After deeming the draft RCIS complete, and generally concurrent with the public review, CDFW will conduct its substantive review. The substantive review is an extensive review, by CDFW, of the accuracy and adequacy of the draft RCIS's content. CDFW typically requires additional time beyond the public review period to complete the substantive review. The length of time needed by CDFW greatly depending on the scope, length, and complexity of the draft RCIS, as well as the extent to which the RCIS proponent has consulted with CDFW during the development of the RCIS.

Upon completion of the substantive review, CDFW shall provide written comments to the RCIS proponent that identify any required changes that must be made to the RCIS before CDFW would be able to approve the RCIS. CDFW's comments also typically include suggested changes for the RCIS proponent to consider.

4.5.3 Submission and Review of the Final RCIS

In preparing a final RCIS, the RCIS proponent shall consider all written comments received from the public, cities and counties, and CDFW. All comments submitted during the public review period and the cities and counties review period shall be included in a section or appendix of the final RCIS submitted to CDFW for final review and shall include the full original comment, a summary of each comment, and the RCIS proponent's response.²⁴⁹ If edits were made to the RCIS as a result of the comment, the RCIS proponent's response must include a description of how the comment was addressed in the RCIS. Responses to public comments received during the public meeting must also be retained in the final RCIS (see Section 4.5.1.3 for detailed requirements to incorporate public meeting comments in the draft RCIS). Additionally, required changes identified during CDFW's substantive review (see Section 4.5.2.4) must also be addressed in the final RCIS.

Prior to formally submitting the final RCIS, the RCIS proponent is strongly encouraged to consult with CDFW regarding edits to the RCIS. This optional

²⁴⁹ Fish & G. Code, § 1854, subdivision (c)(4 & 5)

consultation period could include an informal review by CDFW of the final RCIS to identify any issues that would prevent CDFW from approving the RCIS during the formal final review.

Once the final RCIS is submitted to CDFW for review and approval, CDFW shall have sixty (60) days in which to approve the final RCIS or to explain in writing to the RCIS proponent what additional information is required for CDFW to approve the RCIS.²⁵⁰ CDFW may approve a final RCIS for up to ten years,²⁵¹ although it retains discretion to approve an RCIS for a shorter period of time. CDFW shall make all approved RCISs available on [CDFW's RCIS Program website](#).²⁵²

4.6 Amending an RCIS

CDFW has defined two types of RCIS amendments: simple and complex. A simple amendment would include small or minor changes to the document that are more than a data update (see Section 4.7 – Extending an RCIS), but that do not result in substantial changes, as determined by CDFW. A complex amendment would result in a substantial change to the document, such as changes to the geographic area, focal species, or other conservation elements, as determined by CDFW.

An amended RCIS shall include the reason(s) for the amendment, a summary of the amended information, and the extent to which the RCIS is consistent with an approved or amended RCA covering the RCIS area, if applicable. The complex RCIS amendment is subject to the same public notice requirements and review and approval processes required for original RCISs (see Section 4.5 – RCIS Development, Review, and Approval Process).

An amended RCIS can be submitted by either the original RCIS proponent, CDFW, or by a third-party public agency with the express written authorization of the original RCIS proponent. If a third-party public agency wishes to amend an approved RCIS and the original RCIS proponent declines to so amend the RCIS or to authorize the third-party public agency to do so, the third-party public agency may seek authorization from CDFW to amend the RCIS. CDFW may, in its sole discretion, authorize a third-party public agency to amend an RCIS if it determines that the proposed amendment will

²⁵⁰ Fish & G. Code, § 1854, subdivision (c)(6)

²⁵¹ Fish & G. Code, § 1854, subdivision (a)

²⁵² Fish & G. Code, § 1854, subdivision (d)

provide a substantial conservation benefit and will not unduly prejudice the rights or interests of the original RCIS proponent. CDFW may also, in its sole discretion, amend an RCIS if it determines that an amendment is necessary to conform to new or amended federal, state, or local laws or regulations, or if it determines that the proposed amendment will provide a substantial conservation benefit and will not unduly prejudice the rights or interests of the original RCIS proponent.

4.7 Extending an RCIS

CDFW can approve an RCIS for an initial period of up to 10 years. CDFW may extend the duration of an approved RCIS for additional periods of up to ten years after finding that the RCIS continues to meet the requirements of Fish and Game Code section 1852 and of Section 4.3 of these Guidelines.²⁵³ If the RCIS is intended to be used to create MCA credits, a report must be submitted to CDFW that evaluates the effectiveness of the RCIS actions in achieving the goals and objectives for focal species and other conservation elements, including offsetting the effects of identified pressures and stressors.²⁵⁴ At a minimum, the evaluation must use the information provided by MCA sponsors in accordance with the process outlined in each RCIS (see Section 4.3.8, bullet b).

To extend an RCIS, a written request must be sent to CDFW by sending an email to the [RCIS Program email address](#).²⁵⁵ The request must be sent by the original RCIS proponent, the entity identified in the RCIS, or a public or private entity that has received approval from CDFW. The request must be sent prior to the expiration of the RCIS, unless an exception has been provided by CDFW. The request must include the RCIS evaluation report and a track change version of the RCIS with any edits necessary for the RCIS to be in compliance with Fish and Game Code section 1852 and Section 4.3 of these Guidelines.

Edits to consider include changes to ecological requirements, range and occurrence information, stressors and pressures, and other updates based on the best scientific information available at the time of the extension request. Where applicable, goals, objectives, actions, and priorities may also require

²⁵³ Fish & G. Code, § 1854, subdivision (a)

²⁵⁴ Fish & G. Code, § 1856, subdivisions (b)(2)(A & B)

²⁵⁵ rcis@wildlife.ca.gov

edits to reflect the best available science. Edits for the purpose of extending an RCIS shall not include significant modifications to the RCIS, such as changes to the geographic area or to the lists of focal species, other conservation elements, or non-focal species. Such changes would be considered a complex amendment subject to the requirements for amending an RCIS (see Section 4.6).

Once CDFW receives the extension request, CDFW will begin a review of the edited RCIS to determine whether it meets the requirements of Fish and Game Code section 1852 and of Section 4.3 of these Guidelines. Upon completion the review, CDFW shall provide written approval of the extension or shall explain in writing to the entity requesting the extension what additional information is required for CDFW to approve the RCIS extension.

Section 5

Mitigation Credit Agreements

5.1 Introduction

This section provides guidance to aid in the preparation of a **Mitigation Credit Agreement (MCA)**.²⁵⁶ The purpose of an MCA is to create **credits** that may be used to fulfill, in whole or in part, **compensatory mitigation** requirements established in permits issued by one or more local, state, or federal regulatory agencies, including, but not limited to the California Environmental Quality Act (CEQA)²⁵⁷, the California Endangered Species Act (CESA)²⁵⁸, or Lake and Streambed Alteration (LSA)²⁵⁹ program.²⁶⁰

MCAs can be developed to compensate for impacts to **conservation elements** identified in a **Regional Conservation Investment Strategy (RCIS)**, including **focal species** and **other conservation elements** (which could include habitats or other non-species natural resources).²⁶¹ MCAs can also be developed to compensate for impacts to **non-focal species** listed in an RCIS. MCAs shall only be created within an area of an approved RCIS. An RCIS must be approved before an MCA located within that **RCIS area** can be reviewed and approved by CDFW. An MCA must implement one or more **conservation actions** or **habitat enhancement actions** that measurably advances the **objectives** identified in an approved RCIS to create MCA credits that can be used for mitigation.

To create mitigation credits, any person or entity, including a state or local public agency, shall enter into an MCA with CDFW as the **MCA sponsor**.²⁶² The MCA credits may be used by the MCA sponsor or sold by the MCA sponsor to another entity.

²⁵⁶ These guidelines do not address Fish and Game Code Sections 1955 through 1958; those will be addressed in a separate, but related set of guidelines.

²⁵⁷ Pub. Resources Code, §§ 21000 – 21189

²⁵⁸ Fish & G. Code, §§ 2050 – 2100

²⁵⁹ Fish & G. Code, §§ 1600 – 1617

²⁶⁰ Fish & G. Code, § 1856(d)

²⁶¹ Fish & G. Code, § 1856, subdivision (a)

²⁶² Fish & G. Code, § 1856, subdivision (f)

The use of MCA credits to mitigate for project-specific impacts will be at the discretion of the regulatory agency requiring the mitigation. They will determine the appropriateness of MCA credits to fulfill the mitigation obligations required in their permits. Further, an **approved MCA** or sale of an MCA credit does not guarantee that any proposed project will be approved or permitted or that any proposed impact will be authorized, by any agency.²⁶³

MCAs create credits, where ecologically appropriate and approved by CDFW, for conservation actions and habitat enhancement actions including but not limited to:

- a. Fish and other wildlife corridors and habitat connectivity;
- b. Passages and crossings to infrastructure to benefit species;
- c. Beneficial project actions that exceed the project's mitigation requirements;
- d. Temporary mitigation actions that can offset temporary impacts; and
- e. Mitigation actions on public lands, including CDFW-owned lands.

CDFW recommends that prospective MCA sponsors engage in early consultation with stakeholders, proponents of adjacent and overlapping conservation plans, and CDFW Program staff early and ongoing through the development of MCAs.

To enter into an MCA, the MCA sponsor must complete and submit a draft **MCA package**. The draft MCA package includes the MCA Template, which is an integral part of these Guidelines and is attached to these Guidelines as Appendix A, all of the template's exhibits, Appendix C – MCA Checklist, fees, and any necessary letters. The Fee Schedule can be found on the program webpage (See Section 1.4 – Program Contacts). The draft MCA package must be submitted to CDFW for review, revisions and for approval or disapproval.²⁶⁴

As stated in Section 1.2, the words “shall” and “must” are used for provisions that are required, while the terms “may” or “should” indicate recommendations both in these Guidelines, as well as on-going collaboration and coordination on MCA development.

²⁶³ Fish & G. Code, § 1855, subdivision (b)(4)

²⁶⁴ Fish & G. Code, § 1856, subdivision (g)

Requirements within these Guidelines apply only to the creation of credits under MCAs pursuant to the RCIS Program and do not establish requirements for other forms of compensatory mitigation.²⁶⁵ Nothing in these Guidelines is intended to limit or impose additional conditions on the creation or sale of credits by a conservation bank or mitigation bank approved by CDFW.²⁶⁶

5.2 MCA Relationship to Other Regulatory Structures

5.2.1 Coordination with Federal, State, and Local Agency Use of MCAs

MCAs can be established to meet the requirements of CESA, CEQA, and LSA Agreements. Other federal, state, or local agencies may propose requirements that can also be met by the measures provided for in an MCA, and they can be added as a signatory agency.²⁶⁷ When that is the case, the MCA sponsor shall use the MCA Template (Appendix A) and include only the necessary changes to secure federal, other state agency, or local approvals. With CDFW approval, the MCA Template changes may also be combined with other instruments or agreements for the purpose of creating mitigation credits.²⁶⁸ CDFW will consider the proposed changes to the MCA Template, work directly with the proposed signatory agencies, and seek to accommodate all changes that do not conflict with statute, and/or do not conflict with the goals of the MCA and associated RCIS, including adding them as signatory agencies, to the greatest extent feasible.

The MCA should outline all federal, state, and local agencies that may wish to participate in the MCA and be included as signatories when submitting the draft MCA package. CDFW will engage with the included signatory agency to help in the review of the draft MCA package. The signatory agencies shall collaborate and coordinate the establishment, use, and/or operation of the MCA, in accordance with those agencies' requirements.

If other agencies are interested in participating in the development of the MCA but are choosing not to be signatories, they can still engage with CDFW

²⁶⁵ Fish & G. Code, § 1856, subdivision (a)

²⁶⁶ Fish & G. Code, § 1856, subdivision (j)

²⁶⁷ Fish & G. Code, § 1856 subdivision (d)(1)

²⁶⁸ Fish & G. Code, § 1856 subdivision (d)(2)

and the other agencies during MCA development. For any federal, state, or local agencies that are not a signatory to the MCA, it is the responsibility and discretion of those agencies to determine the appropriateness of using MCA credits to meet their compensatory mitigation requirements.

5.2.2 Consistency with Existing NCCPs

Fish and Game Code Sections 1850-1861 include provisions that specify MCAs must be consistent with any **overlapping Natural Community Conservation Plans (NCCPs)**. These provisions include:

- a. The **conservation easement** or other instrument for the perpetual protection of land that will be used for the MCA must be consistent with any approved NCCP that overlaps with the MCA, which includes an explanation of how the long-term durability of the site of any habitat enhancement actions will be ensured (see Section 5.3.5.1 – Land Use Consistency Declaration).²⁶⁹
- b. The creation of MCA credits within a NCCP plan area requires the advance written approval of the NCCP **implementing entity**. This written approval must be included with the MCA Template as an exhibit (see MCA Template Section 5.1 – Land Use Consistency Declaration).

5.2.3 Consideration of Established Conservation and Mitigation Banks

Nothing in the Guidelines is intended to limit or impose additional conditions on the creation or transfer of mitigation credits by a bank approved by CDFW.²⁷⁰

If an MCA and **established bank(s)** have **service areas** that overlap, the MCA must identify the established bank(s) approved by CDFW that have similar credit types. The MCA sponsor shall explain how available mitigation credits at each bank will be purchased or used in lieu of, or in combination with, the mitigation credits created under the MCA. If those available credits from the established banks will not be purchased or used, the Credit Receipt shall include a section for each entity purchasing MCA credits to outline why they

²⁶⁹ Fish & G. Code, § 1856, subdivision (g)(12)

²⁷⁰ Fish & G. Code, § 1856, subdivision (j)

are not purchasing from an established bank with the same credits available (see Section 5.3.10.4 – Credit Reporting).²⁷¹

5.2.4 Mitigation on Public and Protected Private Lands

In determining whether to approve an MCA, CDFW will consider the ecological needs of the targeted focal species, non-focal species, and/or other conservation elements, regardless of land ownership or protection status. The following are minimum requirements and considerations for CDFW to approve MCAs on public or protected private lands:

- a. An MCA shall not be created on lands that have already been **permanently protected** and has been used for permanent mitigation, or is currently in use, to fulfill compensatory mitigation requirements for one or more projects (see MCA Template Recital I).²⁷² However, in cases where lands have only been permanently protected and not used for permanent mitigation, there may be MCA opportunities.
 1. MCAs on public or permanently protected private lands will be considered when the action's mitigation value is equal to or greater than the mitigation value available on non-permanently protected private lands, and the actions result in a clear and quantifiable improvement or positive change for the focal species, non-focal species, and/or other conservation elements above the site's current conditions.
 2. If an MCA is on public lands or lands that are already protected or enhanced in some way, the number and types of credits will be based on the additional, clear and quantifiable, improvement or positive change gained through the implementation of the conservation and/or habitat enhancement actions on those lands. When CDFW reviews the calculations of credits they will consider a variety of factors, including, but not limited to, comparable actions on similar, but unprotected, private lands, the extent to which the land is already protected, the duration of existing protections, and the amount of land available for the actions associated with the credits (both private and unprotected). As a result of these factors, the mitigation value and amount of credits on public, or previously

²⁷¹ Fish & G. Code, § 1856, subdivision (g)(6)

²⁷² Fish & G. Code, § 1856, subdivision (f)

protected, lands may be less than the mitigation value and amount of similar credits created on non-permanently protected private lands.

- b. The MCA must not preclude, diminish, or interfere with the purpose or funding source used for the acquisition, or the encumbrances or management plan already existing on the **MCA site**.
- c. For MCAs on CDFW lands, the full cost of the MCA must be accounted for, including, but not limited to, all capital improvements, restoration, enhancement, monitoring, long-term management and maintenance, and reimbursement for all CDFW land management staff time including enforcement.

If an MCA is developed on public lands, the MCA sponsor shall submit, with the draft MCA package, a letter or document signed by the public agency landowner indicating their approval to include those lands in the MCA.

5.3 Information Required in an MCA

The following subsections describe the information that must be included in the draft MCA package for CDFW's review and approval. Please see Appendix C – MCA Checklist for a full list of all the required items outlined below. MCA sponsors and preparers should refer to these Guidelines when filling out the MCA Template. Within the template, language that is **[bracketed, bold, and italicized]** provides directions for items or information that the MCA sponsor must provide. This text must be replaced with information relevant to the MCA. Text that is within brackets, but not bold or italicized is template language with options that must be selected based on the terms of the proposed MCA and shall not otherwise be edited. All other proposed changes to template language must be made in track changes to facilitate review and approval or editing by CDFW's Office of General Counsel. Any changes to the template language will extend CDFW's review, revision, and approval or rejection periods. The MCA shall be based on the requirements in the version of the RCIS Program Guidelines that is current when the draft MCA package is submitted to CDFW for review. The RCIS Program Guidelines version used must be indicated in the MCA.²⁷³

²⁷³ The Southport pilot MCA is not required to resubmit their draft MCA package for CDFW approval based on this set of guidelines.

At the beginning of the MCA Template there is a “Recitals” section. It provides the reader with the general purpose of the MCA, the parties involved, sections of Fish and Game Code that are applicable to the MCA, and it also outlines several requirements, and statements that must be met to proceed with the MCA. The MCA sponsor must fill in and meet all of the recitals for an MCA to be approved.

5.3.1 MCA Name

The MCA must include the full name of the MCA, as indicated in the MCA Template Section 1 – Name of the MCA. The MCA sponsor may choose to provide both the full name and an abbreviated name. Both the full and abbreviated names must be unique and not previously used by another MCA.

5.3.2 Supporting RCIS

The MCA must identify the RCIS in which the MCA is located and provide a one- or two-paragraph description of the RCIS, as indicated in the MCA Template Section 2 – Supporting Regional Conservation Investment Strategy (see also MCA Template – Recital E). Describe the geographic extent of the RCIS and the number of focal species, non-focal species, and other conservation elements it addresses. The RCIS referenced must also meet the requirements outlined in Section 4.3.8 – Additional Requirements to Create MCAs (see MCA Template - Recital H).²⁷⁴

5.3.3 Purpose of the MCA

The MCA must describe the purpose and action of the MCA, as indicated in the MCA Template Section 3 – Purpose of the MCA.²⁷⁵ In general, the purpose of an MCA is to establish a mechanism through which the California Department of Fish and Wildlife (CDFW) can authorize the MCA sponsor, and any other parties (e.g. other agencies), to complete actions that measurably advance the **goals** and objectives of an RCIS and to create mitigation credits, including the development, management and monitoring of the site.

To create MCA credits an MCA must identify all of the following: the RCIS action(s) that will be implemented (see MCA Template - Recital F and G); if they are considered conservation and/or habitat enhancement actions;

²⁷⁴ Fish & G. Code, § 1856, subdivision (b)

²⁷⁵ Fish & G. Code, § 1856, subdivision (d)

how and to what extent they will measurably advance the goals and objectives of the RCIS; and how each action is designated as either **preservation** or **establishment**, which includes **restoration**, **creation**, and/or **enhancement**. The actions must be identified using the specific name(s), title(s), or number(s) used in the RCIS. An MCA may implement several actions which could result in the creation of multiple credit types. The action or credit types could include credits or sub-credit types that also meet other applicable local, state, or federal regulatory mitigation needs.

5.3.4 MCA Site and Service Area Information

5.3.4.1 Property Ownership Description

The MCA sponsor must provide a description of the property ownership of each MCA site, including the name on title for each legal parcel associated with the MCA. An MCA may include multiple owners, may encompass multiple legal parcels, and may be comprised of multiple non-contiguous sites (see MCA Template Section 4.1 – Property Ownership Description and Section 4.2 – Contact Information).²⁷⁶

5.3.4.2 Contact Information

The MCA must identify the MCA sponsor and identify the MCA sponsor as a person or entity (see MCA Template - Recital A). All MCAs must include contact information for the MCA sponsor, property owner(s), and land manager(s).²⁷⁷ Additionally, if applicable, the MCA must include contact information for the **CE grantee** or long-term durability agreement entity, and **endowment holder**, which are dependent on the type of real estate instrument and the funding needed for long term management of the MCA respectively (see Section 5.3.7.4 – Real Estate Instrument and Section 5.3.9.2 – Long-term Management Funding). If any contractors and consultants are known at the time the MCA is submitted, their contact information may also be included (see MCA Template Section 4.2 – Contact Information).²⁷⁸ Contact information shall include all of the following as applicable: name, title, agency, legal parcel (owners only), mailing address, phone number, and email address. Notice must be provided to CDFW within 30 days of any

²⁷⁶ Fish & G. Code, § 1856, subdivision (g)(11) and § 1798, subdivision (b)(2)(F)

²⁷⁷ Fish & G. Code, § 1856, subdivision (g)(1)

²⁷⁸ Fish & G. Code, § 1856, subdivision (g)(1)

change in the required contacts or contact information and may require a simple amendment if the MCA is already approved.

5.3.4.3 Qualifications

The MCA must provide the qualifications for the MCA sponsor, land manager(s), conservation easement (CE) grantee (if applicable), endowment holder (if applicable), and any of their contractors or consultants (see the MCA Template Section 4.3 – Qualifications).²⁷⁹ The qualifications for the MCA sponsor should be outlined in Recital A of the Template. The processes for verifying qualifications are dependent on the role of each entity, as follows:

- a. CDFW is required to conduct due diligence when approving entities to hold or manage, and steward mitigation lands, as stated in Government Code Section 65967(c). The roles of the MCA sponsor, property owner, grantee and land manager may be held by one or more persons or entities in a variety of combinations. Some combinations are not allowed, and some are only allowed under limited circumstances. For instance, a property owner cannot be the CE grantee. Consult with CDFW if any of the roles overlap. Any entity proposed to hold or manage and steward the MCA site shall be evaluated under CDFW's due diligence process, which must be completed prior to **MCA establishment**.²⁸⁰
- b. Any entity proposed to hold an endowment for an MCA shall meet the criteria in Government Code Section 65965-65968 and shall certify to CDFW that they meet the requirements under Government Code Section 65968, subdivision (e)(1)-(5).²⁸¹ This certification shall be in the form of a letter (known as a self-certification letter) from the proposed endowment holder. The self-certification letter must be provided prior to MCA establishment; however, it may be provided as part of the draft MCA package if it is available.

5.3.4.4 Location Information

The MCA must provide location information to identify the MCA site(s) (see MCA Template Section 4.4 – Location Information). An MCA may exist on multiple legal parcels, portions of one or more parcels, and may be

²⁷⁹ Fish & G. Code, § 1856, subdivision (g)(1) and § 1798, subdivision (b)(2)(G)

²⁸⁰ <https://www.wildlife.ca.gov/Conservation/Planning/Endowments>

²⁸¹ <https://codes.findlaw.com/ca/government-code/gov-sect-65968.html>

comprised of non-contiguous sites. When an MCA is comprised of multiple locations or sites that are widely separated, they must share a framework, credit types, or **performance standards**.

An MCA site is distinguished from another MCA site based on the following: when the locations are separated by another parcel (non-contiguous), when the property ownership differs, or when the timing of submission is not congruent with the other MCA site(s). CDFW has the discretion to determine how sites are considered based on the above, apply additional fees, or request that separate MCAs be submitted based on the complex nature of review and approval of multiple sites in one MCA package. All subsequent references to 'MCA site' include all sites in the draft MCA package.

The MCA's location information must include the address (or nearest address), site coordinates (latitude/longitude), a written legal description (including county, Section, Township and Range) of the location and driving instructions to each the MCA site, assessor parcel number (APN), access points, and size (in acres) for each MCA site.²⁸² The MCA must also provide maps of the site(s) as follows in an exhibit:

- a. General vicinity map(s) showing:
 1. Cities, roads, or other visual markers.
 2. Public lands and permanently protected lands – identify all public lands and permanently protected lands including NCCPs, conservation and mitigation banks, and any other public and permanently protected lands in the vicinity of the MCA site(s),²⁸³.
- b. Site map(s) showing:
 1. The property or parcel boundaries and MCA site boundary on a 7.5-minute U.S. Geologic Survey (USGS) map, with the name of the quadrangle identified.²⁸⁴
 2. The land use and zoning of the MCA site and surrounding properties.
 3. Provide separately a KMZ file of the location.

The MCA must also provide photos of the site(s) as follows in an exhibit:

²⁸² Fish & G. Code, §§ 1856, subdivision (g)(3) and 1798, subdivision (b)(2)(C)

²⁸³ Fish & G. Code, § 1856, subdivision (g)(8)

²⁸⁴ Fish & G. Code, § 1798, subdivision (b)(2)(D)

- a. Color aerial photographs that are dated and reflect current conditions of the site and surrounding properties.²⁸⁵
- b. Ground-level color photographs taken onsite that reflect the current conditions of the site and surrounding properties. A description of each photograph should include the date, location, direction, and an explanation of what is being captured in the photograph.

5.3.4.5 Service Area

The MCA must identify and explain the service area for each credit type. A service area is the geographic area in which a project may purchase credits from the MCA and use them to mitigate for the impact. Service area dimensions are typically ecologically based and depend on the targeted species or habitat, which may extend beyond the boundary of the RCIS. Each credit type may have its own service area. Each service area must include an ecological justification; however, it may be truncated based on non-ecological boundaries, such as city or county lines, RCIS boundaries, or any other planning boundaries. The ecological justification for each service area should consider the best available science including, but not limited to, current and historic range of the species or other conservation element, key habitat features in the service area required by the species or other conservation elements, and anticipated range shifts due to climate change (see Section 4.3.7.7 – Climate Change Risk and Resilience).

The MCA must provide a map and written description of each credit type's service area(s). The service area map(s) shall be attached as an exhibit (see MCA Template Section 4.5 – Service Area).²⁸⁶ Also, provide separately a KMZ file of each credit type's service area(s). The service area map(s) and description shall include the service area boundary, MCA location, cities, counties, roads, and other key features relevant to clearly identify each service area boundary. It shall also indicate the Hydrologic Unit Code (HUC) and USDA **ecoregion** subsection(s) in which the service area is located. The MCA must explain, and ideally map, how the MCA service area overlaps with established banks or MCAs with similar credits and their service areas, NCCPs, and other RCISs. If an MCA service area overlaps with any established banks, refer to the requirements outlined Section 5.2.3 – Consideration of Established Conservation and Mitigation Banks.

²⁸⁵ Fish & G. Code, § 1856, subdivision (g)(4)

²⁸⁶ Fish & G. Code, § 1856 (f)(17) and 1798.5, subdivision (a)(2)(D)

5.3.5 MCA Site Declarations and Review

5.3.5.1 Land Use Consistency Declaration

There are several factors that may limit, or affect, the timing of MCA development or implementation. To determine what limitations might affect an MCA site, the MCA must disclose the following (see MCA Template Section 5.1 – Land Use Consistency Declaration):

- A. if the site is currently being used for temporary mitigation, which may impact the timing of MCA development;
- B. if it has, or has not, been designated or dedicated for park or open space use; or
- C. if it is designated for purposes that may be inconsistent with habitat preservation

Guidance regarding the approval of MCAs on public and protected private lands is discussed in Section 5.2.4 – Mitigation on Public and Protected Private Lands.

If the MCA site is located within the boundary of an existing NCCP, then the MCA Template Section 5.1 – Land Use Consistency Declaration must include a statement that indicates the NCCP implementing entity has approved the MCA in writing. Refer to Section 5.2.2 – Consistency with Existing NCCPs for more information regarding overlapping NCCPs and this written approval.

5.3.5.2 Public Funding

To ensure that any public funding or grants received for planning, acquisition, restoration, or other purposes related to the MCA does not conflict with the creation of the MCA, the MCA sponsor must explain all sources of public funding and their intended purpose(s) (see MCA Template Section 5.2). Please describe any grant funds received to ensure they don't conflict with the creation of MCA credits. For MCAs on public lands, the MCA must not preclude, diminish, or interfere with the funding or purpose of acquisition of the land (see Section 5.2.4 – Mitigation on Public and Protected Private Lands). No MCA can be utilized to fund or offset the costs of the design, construction, or mitigation of new Delta water conveyance facilities (see MCA Template – Recital J).²⁸⁷

²⁸⁷ Fish & G. Code, § 1855, subdivision (d)

5.3.5.3 MCA Site Inspection by CDFW

CDFW shall inspect all MCA site(s) to evaluate the development of actions being implemented for credits as described in Section 5.3.3 – Purpose of the MCA and in Section 5.3.6.2 – Development Plan.

5.3.5.4 Tribal Resources

To facilitate compliance with CDFW's Tribal Communication and Consultation Policy, which states that CDFW will seek in good faith to consult with tribes whenever CDFW actions may significantly impact tribal interests, CDFW will notify all tribes in accordance with the Tribal Communication and Consultation Policy. Additionally, the MCA sponsor is required to perform a cultural resources records search on the proposed MCA site. The results of the records search must be summarized as an exhibit to the MCA Template titled Tribal Resources Summary (see MCA Template Section 5.4 – Tribal Resources). If the MCA sponsor chooses to conduct field surveys or collects additional information regarding cultural resources on site, any information that is available for the public, should be included in the Tribal Resources Summary exhibit.

Based on the Tribal Resources Summary and any communication resulting from CDFW's tribal notification process, CDFW will follow the procedures in CDFW's Tribal Communication and Consultation Policy prior to determining whether to approve the MCA, which may result in additional tribal communication and outreach, and/or field surveys or site inspections.

If resources are discovered during MCA development or maintenance that were not already identified or disclosed through the Tribal Resources Summary exhibit or through communications resulting from CDFW's tribal notification process, CDFW will follow the procedures in CDFW's Tribal Communication and Consultation Policy which will likely result in additional tribal outreach and field surveys or site inspections before continuing with MCA development or maintenance.

5.3.5.5 Approvals

The MCA sponsor must obtain all permits, authorizations, and other approvals necessary or appropriate to survey, develop, construct, operate, or maintain the MCA, including those issued by CDFW. An approved MCA does not constitute or substitute for any such approvals. Once obtained, copies of all approvals shall be provided to CDFW (see MCA Template Section 5.5 – Approvals).

The MCA must outline the permits, authorizations, and other approvals needed for each site, including the name and contact of each agency requiring the permit, authorization, or approval, permit numbers or other preliminary identifiers, agency contact and their status at the time the draft MCA package is submitted and updated prior to MCA approval. The MCA sponsor should expect to meet and confer with CDFW regarding any permits issued by CDFW.

5.3.5.6 Compliance with the California Environmental Quality Act

CDFW's approval of MCA's is a discretionary act subject to CEQA. CDFW will typically be responsible agency for review of an MCA. In order for CDFW to approve an MCA as a CEQA responsible agency, it must review all CEQA documents related to the MCA and prepare findings. Section 5.6 of the MCA Template provides instructions for identifying the CEQA Lead Agency and the type of CEQA document associated with the MCA (i.e., Mitigated Negative Declaration, EIR, etc.). CDFW must make a finding that the approval of the MCA will not result in any significant, adverse impacts on the environment.

The MCA may be submitted concurrently with, or following submittal of a CEQA document, but the CEQA document must be finalized prior to MCA approval.

5.3.6 MCA Site Development, Management, and Operations

This section requires the MCA sponsor to outline the biological suitability of the site within the Natural Resources Evaluation. The **Development Plan** requires the MCA sponsor provide specifics on how the site will be developed, maintained, and monitored from site development to interim management to long-term management, including site closure.

5.3.6.1 Natural Resources Evaluation

The MCA shall include a natural resources evaluation for each MCA site that documents biotic and abiotic baseline conditions, including past, current, and adjacent land uses, vegetation types, species information, topography, hydrology, and soil types (see MCA Template Section 6.1 – Natural Resources Evaluation).²⁸⁸ At a minimum, the natural resources evaluation shall include:

²⁸⁸ Fish & G. Code, § 1856, subdivision (g)(7)

- a. Site history, including past and present land uses (e.g., grazing practices, dryland farming practices), and location in the floodplain (if applicable).
- b. A description of the general site conditions including topography, soils, and hydrology.
- c. If wetlands or other water bodies occur onsite, describe the hydrologic regime. If credits are included for aquatic species, aquatic natural communities, or waters or wetlands, describe existing wetlands, lakes, streams, and other aquatic features or related habitat present onsite. The description should include the onsite and offsite hydrology affecting the aquatic resources for which credits are being included, including upstream or downstream barriers or diversions.
- d. A map, list, and description of the vegetation and/or habitats present onsite. The map should provide enough detail to appropriately differentiate the areas of the MCA site that are suitable for any species credits. If appropriate, the map should use the same vegetation classification system used in the RCIS when identifying vegetation.
- e. A list of known plant and animal species present onsite, including all focal and non-focal species proposed for credits.
- f. An analysis regarding the presence of endangered, threatened, focal, or **sensitive species**, and/or their habitats. The analysis shall include information about the known and potential presence of focal species, non-focal species, and other conservation elements identified in the RCIS, including their current and past use of the site and the surrounding area (including range maps and descriptions), up to date **California Natural Diversity Database (CNDDDB)** records and maps depicting occurrences within 5-miles (or a larger radius, if appropriate), and the results of any site surveys conducted. If an MCA is proposing species credits, CDFW may require surveys to determine their density and/or baseline population. If surveys are necessary, all survey methods and results shall be described and provided to CDFW for review and acceptance. If protocol surveys are needed, CDFW recommends review and acceptance of survey methodology to ensure CDFW's acceptance of survey results. All necessary permits must be obtained prior to surveys.
- g. The presence and general extent of invasive species, and if available, the California Invasive Species Council inventory rating.²⁸⁹

²⁸⁹ <https://www.cal-ipc.org/plants/inventory/>

5.3.6.2 Development Plan

The MCA must include a Development Plan if the MCA sponsor proposes the creation of establishment credits, which may include habitat creation, enhancement, or restoration (see MCA Template Section 6.2 – Development Plan). An MCA that includes only preservation credits must also include a Development Plan if the MCA site development includes any ground disturbing activities, such as the installation of a fence or well.

The Development Plan shall explain how the site will preserve habitat with ground disturbing activities or establish habitat through creation, restoration, or enhancement activities, including all planned construction phases.²⁹⁰ A Development Plan should include:

- a. Map(s), including final site designs and construction drawings. Final site designs may require CDFW review and acceptance; including the location, delineation, dimensions, types, and amounts of each credit type.
- b. A discussion of the site's current baseline conditions, including habitat and species known or potentially present. Baseline conditions for consideration include, but are not limited to, vegetation, hydrology, soils, habitat status or functions, species presence, and water quality and floodplain management goals. This section may reference photos and maps provided in the Location exhibit (see Section 5.3.4.4 – Location Information);
- c. An explanation of the ecological suitability of the site including a brief description of the factors considered during site-selection. The description shall consider information from the RCIS as appropriate, including ecoregional features such as aquatic habitat diversity, habitat connectivity, relationships to hydrologic sources, land use trends, ecological benefits, and compatibility of the site(s) with adjacent land uses including known present, entitled, and General Plan designations and zoning.
- d. A detailed description of how each conservation action and/or habitat enhancement action, identified in MCA Template Section 3 – Purpose of the MCA, will be designed, constructed, implemented, and phased (as applicable) to preserve or establish habitat.

²⁹⁰ Fish & G. Code, §§ 1856, subdivision (g)(5) and 1798.5, subdivision (a)(2)(B)

- e. A description of the site, including a summary of site development objectives, types of land use, climate, hydrology, and the species and habitats expected to be present once the performance standards have been met, including the credit types and locations.
- f. A discussion of the desired future condition of the site (i.e., site objectives), including a summary of site development objectives, types of land use, climate, hydrology, and the species and habitats expected to be present once the performance standards have been met, including the credit types and locations.
- g. Based on the MCA actions, identify which of the **metrics** listed in the RCIS will be used to contribute to offsetting the threats to focal species and achieving the RCIS's goals and objectives. The metrics must incorporate both area and habitat quality and shall be used to measure the net ecological gain from the implementation of the MCA actions as compared to baseline conditions.²⁹¹
- h. If applicable, a justification for any non-focal species credits sought, indicating how the actions of another focal species or other conservation element provides for the conservation needs of the targeted non-focal species. Ensure that the estimated acreage and location are clearly included as well.
- i. A discussion of potential impacts to existing resources on-site, and a list of avoidance and minimization measures to eliminate or reduce impacts to those resources.
- j. Identify the ecologically-based performance standards that will be used to measure the net ecological gain from implementing the conservation action and/or habitat enhancement action to achieve the desired site conditions. When developing performance standards, the MCA sponsor shall consider the best available scientific information, timing, any site-specific information derived from site surveys, and nearby reference sites that include the desired habitat outlined in the final designs. Performance standards must be measurable ecologically based indicators that track progress of actions for focal species, non-focal species, and or other conservation elements. Performance standards should also include monitoring methods, a schedule for reporting monitoring results, the timing necessary to meet objectives, and a discussion of possible **remedial**

²⁹¹ Fish & G. Code, § 1856, subdivision (g)(10)

actions and adaptive management strategies to meet any unmet performance standards.

5.3.6.3 Interim Management and Monitoring Plan

The MCA sponsor shall be responsible for conducting management, monitoring, and maintenance activities according to the **Interim Management and Monitoring Plan**. The Interim Management and Monitoring Plan covers the period beginning at MCA establishment and ending after all performance standards have been met and the endowment has been fully funded for three years. The Interim Management and Monitoring Plan shall be attached as an exhibit to the MCA (see MCA Template Section 6.3 – Interim Management and Monitoring).²⁹²

The Interim Management and Monitoring Plan should be based on the Development Plan. It shall identify the interim management activities, including adaptive management strategies, monitoring, reporting, **performance-based milestones**, performance standards, and any other activities that the MCA sponsor intends to implement or monitor during the **interim management period**. If there are separate construction phases, after credits have been released, the Interim Management and Monitoring Plan shall include provisions for managing each construction phase independently as well as together. At a minimum, the Interim Management and Monitoring Plan must include:

- a. The purpose for establishing the MCA, with the goal and purpose of the Interim Management and Monitoring Plan.
- b. A description of the site, including a summary of site development objectives, types of land use, climate, hydrology, and the species and habitats expected to be present once the interim management performance standards have been met, including the credit types and locations.
- c. A description of any conservation or habitat enhancement actions, identified in Section 3 of the MCA Template, that will be completed during the interim management period, if applicable, including the design, construction, implementation, and phasing (as applicable) to establish habitat.

²⁹² Fish & G. Code, §§ 1856, subdivision (g)(17) and 1798.5, subdivision (a)(2)(B)

- d. A discussion and map(s) of the overall MCA site design indicating the location, delineation, dimensions, types, and amounts of each credit type.
- e. The requirements and schedule of the overall management, including maintenance and monitoring goals, specific tasks and timing of implementation, the ecological based performance standards and identifying the RCIS metrics outlined in the Development Plan, a discussion of any foreseeable constraints which may impede the achievement of the MCA objectives, and a discussion of adaptive management strategies and remedial actions to mitigate for potential issues and any unmet performance standards.
- f. The Interim Management Security analysis (see Section 5.3.9.1 – Securities).
- g. The performance standards, thresholds, or criteria that must be implemented during the interim management period, that once met will initiate a scheduled **credit release** described in the credit release schedule.
- h. The frequency and timing of monitoring and reporting that must be conducted or completed in order to determine if the performance standards, thresholds, or criteria are being met.

5.3.6.4 Long-term Management and Monitoring Plan

At the end of the interim management period, the property owner shall be obligated to manage, monitor, and maintain the MCA for the duration of the real estate instrument (e.g., Conservation Easement or long-term durability agreement) and to preserve its habitat and conservation values in accordance with the **Long-term Management and Monitoring Plan**. The property owner may authorize a land manager to carry out necessary management, monitoring, and/or maintenance needed for the MCA; however, the owner remains responsible.

All MCAs must include a Long-term Management and Monitoring Plan (see MCA Template Section 6.4 – Long-term Management and Monitoring).²⁹³ The Long-term Management and Monitoring Plan identifies the management activities, including adaptive management strategies, monitoring, reporting, other standards that will be measured, and any other activities to be conducted during the **long-term management period**. Such activities will

²⁹³ Fish & G. Code, §§ 1856, subdivision (g)(14) and 1798.5, subdivision (a)(2)(B)

normally be paid with funds disbursed from the **endowment fund** (See Section 5.3.9.2 – Long-term Management Funding, for funding variations). During the long-term management period, the property owner shall be responsible for submitting annual reports to CDFW but may delegate these responsibilities to an approved land manager (see Section 5.3.11 – Reporting).

The following are the minimum elements to be included in the Long-term Management and Monitoring Plan:

- a. The purpose for establishing the MCA and the purpose of the Long-term Management and Monitoring Plan for each action and site.
- b. A description of the setting, location, types of land use activities, climate, hydrology, and species and habitats expected to be present once the MCA meets interim performance standards and enters long-term management.
- c. Overall management, including adaptive management strategies, maintenance and monitoring goals, specific tasks and timing of implementation, identifying the RCIS metrics outlined in the Development Plan, and a discussion of any constraints which may impede achieving goals.
- d. The long-term management needs (e.g., management of invasive species, inspections, fencing, etc.) on the site and any temporary or long-term structural management requirements (e.g., levees, weirs, culverts, water development for grazing, etc.) needed to ensure hydrological or vegetative restoration and functions.
- e. Funding for long-term management, such as the Endowment Fund Analysis and Endowment Fund Schedule (see Section 5.3.9.2 – Long-term Management Funding).
- f. Discussion of adaptive management actions for reasonably foreseeable events and possible thresholds for evaluating and implementing adaptive management.
- g. Monitoring and reporting requirements and schedule with requirements for reporting MCA monitoring results to CDFW
- h. The performance standards, thresholds, or criteria that must be maintained during the long-term management period in order to verify that the site continues to provide the intended credits and/or conservation values.

- i. The frequency and timing of monitoring and reporting that must be conducted or completed in order to determine if the performance standards, thresholds, or criteria that are tied to the long-term effectiveness of the MCA are being met.
- j. Rights of access to the MCA site and prohibited uses of the MCA site as provided in the Conservation Easement or other long-term durability agreement as approved by CDFW.
- k. Procedures for amendments and notices.
- l. Include a reference to a cultural resource protection plan, if applicable.

5.3.6.5 Remedial Action Plan

The MCA must prepare a remedial action plan, which describes the requirements of all parties, if the MCA fails to achieve its performance standards. The MCA Template Section 6.5 – Remedial Action Plan, describes how and when a remedial action plan will need to be developed. If needed, the remedial action plan will identify and describe the actions that will be taken to achieve the impacted performance standards, to remedy an injury or adverse impact to the MCA site and will set forth a schedule within which the MCA sponsor will implement those actions.

5.3.6.6 MCA Site Closure

The MCA Template Section 6.6 – MCA Site Closure outlines the procedures for closing an MCA site. When an MCA has more than one site, the site closure shall allow for the closure of an individual site even if other sites remain open. **MCA closure** shall occur upon written approval by CDFW with input from other signatory agencies and all requirements described in 6.6 have been met. At MCA closure no further **credit sale**, or returns shall occur at that site.

MCA closure shall occur when CDFW provides written confirmation that all of the following have occurred:

- a. All performance-based milestones and performance standards have been met and all remedial action required under MCA Template Section 6.5 have been completed as evidenced by:
 1. Submission of all required annual reports in accordance with MCA Template Section 11.
 2. The completion of all remedial action, if any, in accordance with the applicable remedial action plan(s).

3. An on-site inspection by CDFW.
- b. Either: (1) the last authorized credit has been sold; or (2) the MCA sponsor requests MCA closure by written notice to CDFW and CDFW provides written approval of the closure.
- c. All financial responsibilities of the MCA sponsor have been met, including full funding of the endowment amount for no less than three years, if applicable, and full payment of the CDFW implementation fee.

5.3.7 MCA Site Evaluation

In addition to the natural resources evaluation above in Section 5.3.6 – MCA Site Development, Management, and Operations, the MCA must include information to assist in evaluating the shared control of the real property as described in the encumbrances on title of the real property; and an evaluation of any hazardous materials found on the land as defined in The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 as amended (42 U.S.C. § 9601, et seq.).

The MCA must include an accurate boundary description of the proposed footprint of the land that will be protected under the real estate instrument related to the requested MCA credits. Below is the real property information needed to assist in evaluating any transfer of property rights consistent with MCA site protection.

5.3.7.1 Phase I Environmental Site Assessment

The MCA sponsor shall include a Phase I environmental site assessment for each MCA site (see MCA Template Section 7.1 – Phase I Environmental Site Assessment). The assessment must be dated no more than six months prior to the date the draft MCA package is submitted to CDFW for review and approval. This assessment shall be performed in accordance with the American Society of Testing and Materials (ASTM) Standard E1527-05, Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process or any successive ASTM standard active at the time of the assessment.²⁹⁴

²⁹⁴ Fish & G. Code, § 1798.5, subdivision (a)(2)(H)

5.3.7.2 Legal Description, and Plat Maps

An MCA must include a legal description and plat map of the property containing the MCA and the conservation easement or long-term durability boundary that is prepared in accordance with the Land Survey Reference.²⁹⁵

5.3.7.3 Property Assessment and Warranty

All MCAs will be required to provide a **Property Assessment and Warranty** (PAW) (see MCA Template Section 7.3 – Property Assessment and Warranty) as an exhibit to the MCA Template. The PAW identifies the owner of the fee simple title and shows all liens, easements, and other encumbrances and depicts all relevant property lines, easements, dedications, and other features including a legal description, and parcel maps. The PAW represents a covenant, representation, and warranty by the MCA property owner to the following matters: title to property, authority, no conflicting right, legal access, senior rights, mineral, water, and air rights, no other interests, certification (of PAW), and no options which are outlined in the Property Assessment and Warranty Template.²⁹⁶

The PAW must include the following:

- a. Preliminary Title Report which is issued by a Title provider after a thorough title search has been made on the MCA's real property and all the documents affecting the property have been examined to determine their effect on the MCA site. The title search is based on public records, recorded by the County Recorder of the county in which the MCA property is located.
- b. An explanation of all recorded and unrecorded encumbrances affecting the Property on title and how these encumbrances may or may not conflict with the conservation values proposed in the MCA and its conservation easement.

A Boundary Improvements and Encumbrances (BIE) Map must be included in accordance with the Land Survey Reference. The BIE Map is a digital (PDF) map (24-in x 36-in).

If the preliminary title report indicates that there are mineral rights that are reserved or severed, the sponsor must provide a Mineral Assessment Report

²⁹⁵ Land Survey Reference Department of Fish and Wildlife. Available at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=202412>

²⁹⁶ <https://wildlife.ca.gov/Conservation/Planning/Banking/Templates>

which shall include a mineral remoteness opinion, prepared by a licensed geologist. The Mineral Remoteness Report must be included as an attachment to the Property Assessment and Warranty. The preliminary title report shall not be dated more than one year before the date the draft MCA package is submitted to CDFW for review and approval.

5.3.7.4 Real Estate Instrument

An MCA that includes permanent credits must include a draft Conservation Easement (see MCA Template Section 7.4 – Real Estate Instrument)²⁹⁷ that is prepared in accordance with the Conservation Easement Template. The draft Conservation Easement must be submitted for review in track changes.²⁹⁸ If an MCA is located within an approved NCCP and is proposing permanent credits, the conservation easement or other perpetual real estate instrument must be consistent with the NCCP (see Section 5.2.2 – Consistency with Existing NCCPs).²⁹⁹

An MCA proposing temporary credits for habitat enhancement actions must include an explanation regarding how the long-term durability of the site will be ensured.³⁰⁰ Long-term durability shall be accomplished through an enforceable legal instrument, such as a deed restriction, contract, or other type of non-perpetual easement, which must remain in effect at least as long as it would take for the potential impacts covered by the credits to be returned to pre-impact ecological conditions or the length of the MCA contract, whichever is longer.³⁰¹ MCA sponsors should consult with CDFW as to the appropriateness of any particular durability instrument for each site with a habitat enhancement action; not all instruments listed can be used for all habitat enhancement actions.

If an MCA site is located within an approved NCCP and is proposing habitat enhancement actions, the long-term durability agreement must be consistent with the overlapping NCCP (see Section 5.2.2 – Consistency with Existing NCCPs).

²⁹⁷ Fish & G. Code, §§ 1856, subdivision (g)(12) and 1798.5, subdivision (a)(2)(C)

²⁹⁸ See template available: <https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates> (note – replace “bank” with “MCA” and replace “BEI” with “MCA” in the referenced templates)

²⁹⁹ Fish & G. Code, § 1856, subdivision (g)(12)

³⁰⁰ Fish & G. Code, § 1856, subdivision (g)(12)

³⁰¹ Fish & G. Code, § 1856, subdivision (e) and subdivision (b)(1)

5.3.7.5 Title Insurance

Title insurance is required for MCA establishment for all MCAs proposing conservation actions (see MCA Template Section 7.5 – Title Insurance). Receipt of Title Insurance shall be required upon recordation of the Conservation Easement.

Title insurance is not needed for sites only proposing habitat enhancement actions.

5.3.8 MCA Establishment

MCA establishment is the point in time where the MCA sponsor may begin selling and using MCA credits. To achieve MCA establishment, all of the conditions described in the MCA Template Section 8 – MCA Establishment, must be met. This includes:

- a. The MCA has been approved by all of the Parties;
- b. One of the following real estate instruments is in place, as applicable:
 1. A Conservation Easement that has been (1) executed by the Grantor; (2) accepted by a Grantee that has been approved by CDFW; and (3) recorded in the Official Records of the county in which the MCA is located;
 2. A long-term durability agreement approved by CDFW that has been properly processed;
- c. The MCA sponsor has complied with its obligation to furnish all necessary financial securities in accordance with MCA Template Section 9;
- d. Any subordination agreement(s), required to prioritize the Conservation Easement over other encumbrances, has been executed and recorded;
- e. Title Insurance has been provided to CDFW upon recordation of the required real estate instrument according to MCA Template Section 7.4, if required;
- f. Sufficient long-term management funding is in place to cover any credits released. For endowments, the funding shall be in accordance with MCA Template Section 9.2.1;
- g. All reporting requirements necessary since MCA approval have been met according to MCA Template Section 11.

MCA establishment occurs after the MCA has been approved and all the MCA components are finalized, processed, submitted, and/or resolved, such as recording the Conservation Easement. MCA establishment is the first point in time where the MCA sponsor may begin selling and using MCA credits.

To ensure that the MCA and the preserved or established habitat is preserved in perpetuity, it must be clear that the Conservation Easement is prioritized over any and all easements, or other encumbrances on the property. If any such easements or encumbrances exist, the MCA sponsor must ensure that the grantee or third-party beneficiary, if applicable, of the easement or encumbrance executes a subordination agreement in a form to be approved by CDFW's Office of General Counsel.

Once all the MCA components are finalized, CDFW will inform the MCA sponsor in writing that they have achieved all conditions necessary for MCA establishment. Upon MCA establishment, CDFW may release credits and the MCA sponsor can begin selling or using any credits released as outlined in the Credit Release Schedule exhibit.

5.3.9 Financial Securities and Funding

The MCA sponsor is responsible for providing financial securities to guarantee that construction, management, monitoring, reporting, and remedial actions, are completed as described in the MCA and that performance standards are met. These financial securities can be in the form of one or more instruments. Long-term management funding, in the form of an endowment fund will also be needed for the long-term protection and management of each site.³⁰²

5.3.9.1 Securities

Securities are required to ensure funding of specific tasks that are to be completed during defined periods of MCA site development or for various phases of management (see MCA Template Section 9.1 – Securities). Financial securities are typically required for activities not completed or fully funded prior to MCA establishment and prior to release of credits. The types of securities required for each MCA will depend on the type of credit and/or action and may include securities for construction, performance, interim management, and/or compliance.

³⁰² Fish & G. Code, §§ 1856, subdivision (g)(13)

- a. **Construction Security:** A Construction Security is required if credits will be released for sale or use, prior to the completion of all construction related activities. This is based on the total cost of construction yet to be completed.

For a Construction Security to be released, CDFW must ensure that the site was built as described in the Development Plan. Therefore, if the MCA includes construction, as-built drawings of each MCA site, with accurate maps of the constructed habitats, must be submitted to CDFW no later than 90 calendar days following the completion of all construction activities. The as-built drawings shall consist of construction plans, with as-built conditions clearly shown, with a full-size set available upon request. The as-built drawings and any attachments must describe in detail any deviation from the Development Plan. Review and acceptance by CDFW will be necessary to release the Construction Security or to determine that construction has been completed.

- b. **Performance Security:** A Performance Security is needed if credits are to be released prior to meeting all performance-based milestones and/or performance standards described in the Development Plan. The cost is based on a measure of expected costs associated with project management, monitoring, and reporting from the time construction is completed to completing all performance-based milestones and/or performance standards. This cost shall be no less than 10% of the construction cost and depends on the cost of any foreseeable remedial action, or another amount approved by CDFW when no construction. After CDFW determines the MCA sponsor has satisfied all performance-based milestones and/or performance standards, CDFW will release the Performance Security.
- c. **Interim Management Security:** An Interim Management Security is required if credits will be released for sale and use prior to completing the interim management period. The cost is based on the expected costs associated with three years of interim management. When the MCA sponsor can show that the interim management period has been completed and accepted, CDFW will release the Interim Management Security.
- d. **Compliance Security:** A Compliance Security is required prior to MCA establishment to cover any foreseeable remedial actions and ensure that the MCA maintains its performance standards until MCA closure. The cost is based on no less than 10% of the Construction Security and depends on

the cost of any foreseeable remedial action, or another amount approved by CDFW when no construction occurs.

Additional information regarding the securities is in the MCA Template Section 9.1 – Securities. If the MCA is on CDFW lands, refer to Section 5.2.4(c) – Mitigation on Public and Protected Private Lands, regarding costs that must be accounted for.

Securities must be in the form of an irrevocable standby **letter of credit (LOC)** with CDFW as the beneficiary to be held by CDFW or cash.³⁰³ If a LOC is the selected form of security, the MCA sponsors must use the LOC template. Any changes to the LOC template shall be made in track changes for CDFW's review and acceptance.³⁰⁴ Each LOC should be issued for at least one year and shall indicate that the expiration date will be automatically extended for at least one year on successive expiration dates until which time the security is no longer required as determined by CDFW. Each security must be approved in advance, in writing, by CDFW's Office of the General Counsel.

The financial securities are not required at the time the draft MCA package is submitted but are required prior to MCA establishment. A Securities Analysis exhibit must be submitted and accepted for approval of all MCAs. The Securities Analysis must describe the estimated value of each security and how they were calculated, as well as the time period (e.g., construction phase), and the specific tasks or performance standards that are to be covered by each security, including the types of monitoring and reporting necessary for each phase.

Each Securities Analysis shall include the following: a schedule of the activities associated with the security; a table or spreadsheet that shows all the tasks (management, monitoring, reporting), task descriptions; labor (hours); costs per unit; the cost, frequency, and timing of all tasks; the total annual funding necessary for each task; and any associated assumptions for each task. The total annual expenses should include administration and contingency costs as well. All cost estimates should be based on tasks implemented by a third-party in present day dollars or equipment prices in present day dollars.

CDFW, as the holder of the securities, shall be entitled to draw upon the security for default, including but not limited to failure to perform any tasks, as

³⁰³ Fish & G. Code, §§ 1856, subdivision (g)(13) and 1798.5, subdivision (a)(2)(G)

³⁰⁴ See template available at <https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates> (note – replace “bank” with “MCA” and replace “BEI” with “MCA” in the referenced templates)

required under the Development Plan or the Interim Management and Monitoring Plan.

If any portion of any security is drawn upon, the MCA sponsor shall replenish the security to the amount specified in the Securities Analyses Exhibit (See MCA Template Section 9.1 – Securities) within 90 calendar days after written notice from CDFW.

5.3.9.2 Long-term Management Funding

The MCA sponsor shall explain how the long-term protection and management of the conservation action(s) or habitat enhancement action(s) at each site will be adequately funded through an endowment or another comparable funding mechanism approved by CDFW if the MCA sponsor is a California state agency (see MCA Template Section 9.2 – Long-term Management Funding).³⁰⁵

For endowments, the fund shall be held in trust for the benefit of the resources to be protected and shall be held, managed, invested, and disbursed solely for, permanently restricted to, the stewardship and management of the MCA site in accordance with the MCA. The endowment amount shall be supported by an economic analysis of the funding necessary to fully fund the maintenance and long-term management activities of the site, including monitoring and reporting, in perpetuity.³⁰⁶ The entity proposed to hold an endowment must meet the qualifications indicated in Section 5.3.4.3(b) – Qualifications.

All endowment deposits must be adjusted for inflation until the endowment is fully funded. The endowment fund should be governed by an investment policy statement that is designed to generate investment returns, over long periods of time, sufficient to keep pace with inflation and pay the costs of long-term management and monitoring, net of any financial investment and administrative fees. Each endowment deposit shall be confirmed by CDFW and must be summarized in the Endowment Inflation Report annually as indicated in Section 5.3.11.1 – Annual Inflation Adjustments to Endowment Inflation Report. Disbursements shall not be made from the endowment fund until approximately three years after the endowment amount is fully funded. All financial records related to the endowment fund must be maintained and may be audited at the request of CDFW.

³⁰⁵ Fish & G. Code, §§ 1856, subdivision (g)(13) and 1798.5, subdivision (a)(2)(F)

³⁰⁶ Fish & G. Code, §§ 1856, subdivision (g)(13) and 1798.5, subdivision (a)(2)(F)

The Endowment Fund Analysis and the Endowment Fund Schedule exhibits shall include a table and/or spreadsheet that shows the projected annual capitalization rate; all of the tasks (e.g., management, maintenance, monitoring, reporting); task descriptions; labor (hours); materials; equipment; cost per unit; timing, frequency, or scheduling of the tasks; the total annual funding necessary for each task; and any assumptions made for calculating each task required by the Long-term Management and Monitoring Plan. The total annual expenses should also include administration and contingency expenses. Cost estimates should be calculated with the assumption that tasks may be implemented by a third-party and/or equipment prices in present day dollars. If the MCA is on CDFW lands, refer to Section 5.2.4(c) – Mitigation on Public and Protected Private Lands, regarding additional costs that must be accounted for in the endowment. When the MCA sponsor is a state agency, another comparable funding mechanism(s) may be proposed subject to CDFW approval; however, the alternative funding mechanism must be comparable to an endowment and ensure perpetual funding.³⁰⁷

If an MCA sponsor proposes only temporary credits, an alternative funding mechanism may be proposed; however, it must ensure that the maintenance and management activities of the site, including monitoring and reporting, are fully funded for at least as long as the duration of the credits described in the MCA.

Any alternative funding mechanism must be proposed prior to MCA approval for review and approval by CDFW's Office of General Counsel and in accordance with an adopted statewide policy regarding funding for long-term management and operations of mitigation sites³⁰⁸.

If an MCA sponsor intends to release credits for sale or use prior to fully funding the endowment, the same or greater portion of the endowment's principle must be funded.

³⁰⁷ Fish & G. Code, §§ 1856, subdivision (g)(13) and 1798.5, subdivision (a)(2)(F)

³⁰⁸ Fish & G. Code, § 1856, subdivision (g)(13)

5.3.10 Credit Type, Release, Sale and Use, and Reporting

5.3.10.1 Credit Type and Quantity

The MCA shall describe the type and quantity of credits to be created and the supporting justification (see MCA Template Section 10.1 – Credit Type and Quantity).

MCA credits are organized into three general types. The general types include permanent preservation credits, permanent establishment credits, and temporary establishment credits, as described below.

Permanent credits must be based on conservation actions. Permanent credits are created when the land is permanently protected and managed through the MCA through a conservation easement or if in an approved NCCP area, by establishing perpetual protection of land in a manner consistent with the approved NCCP.³⁰⁹ This includes long-term management and monitoring.

Temporary establishment credits are created through the implementation of habitat enhancement actions *to restore, enhance, and/or create ecological resources*.

In general, both permanent and temporary credits may be considered for fulfilling mitigation requirements of temporary impacts so long as the credit duration is concurrent with and at least as long as the impact duration.³¹⁰

When necessary, the MCA sponsor may suggest other credit types for CDFW consideration, including sub-credit types to meet other applicable local, state, or federal regulatory mitigation needs. However, all credit types must be consistent with the RCIS Program statute and requirements of these Guidelines and must be approved by CDFW in its sole discretion. MCA credits shall directly correlate to the conservation needs of the focal species, non-focal species, and other conservation elements addressed by the conservation actions or habitat enhancement actions of an approved RCIS.³¹¹

³⁰⁹ Fish & G. Code, § 1856, subdivision (g)(12)

³¹⁰ Fish & G. Code, § 1856, subdivision (e)

³¹¹ Fish & G. Code, § 1856, subdivision (f) and (g)(9)

The MCA shall describe the intended relationship to regulatory programs and authorities for each credit type, as applicable (for example, to provide compensatory mitigation for unavoidable impacts on specific species under CESA).

MCA credits may be proposed on existing public or protected lands. However, credits may only be considered on public lands for any additional conservation actions and habitat enhancement actions on those lands in addition to existing conservation that go above and beyond those the public agency or landowner is already obligated to do (see Section 5.2.4 – Mitigation on Public and Protected Private Lands). Mitigation credits on public and permanently protected land may result in reduced credit values on lands previously protected or enhanced.

To the extent possible, MCAs should include a standard credit type, as follows:

- a. Permanent preservation credits must be managed to maintain existing habitat and species values, and permanently kept in a state that is valuable as habitat for focal species or other conservation elements with *little to no improvements to the land*. Permanent preservation credits are created through the implementation of conservation actions to *preserve* ecological resources, including habitat, natural communities, ecological processes, wildlife corridors and habitat connectivity, in perpetuity. Permanent preservation credits may only be created on lands that are not yet permanently protected, have never been used for any permanent mitigation, and have only been used for temporary mitigation that has expired. The following is an example of permanent preservation credits.
 1. Example #1 (permanent preservation credits for CEQA mitigation on unprotected private land) - A western burrowing owl (*Athene cunicularia*) nesting pair is found on an unprotected private parcel of grassland. Preserving the land implements a conservation action identified in the RCIS and an MCA is approved, including a conservation easement and long-term management and monitoring. In this example, long-term management and monitoring includes allowing ground squirrels to persist onsite and an on-going mowing regime to keep the grasses at the preferred height for burrowing owl.
- b. Permanent establishment credits are created through the implementation of conservation actions to *create, enhance, or restore* ecological

resources, including habitat, natural communities, ecological processes, wildlife corridors, fish passage barrier removals, and habitat connectivity, to protect those resources permanently, and to provide for their perpetual management, so as to help achieve one or more biological goals and objectives for one or more focal species or other conservation elements. Permanent establishment credits may be created on unprotected lands, that have not been used for any permanent mitigation, and have only been used for expired temporary mitigation. Permanent establishment credits may also be created on lands that are already permanently protected but have never been used for any permanent mitigation. The permanent establishment credits must result in a clear and quantifiable improvement or positive change for the focal species, non-focal species, and/or other conservation elements above the site's current conditions. The land must be permanently protected through a conservation easement or by establishing perpetual protection of land in a manner consistent with a draft or approved NCCP, and permanently kept in a state that is valuable as habitat for the targeted focal species, non-focal species, or other conservation elements.

The following are examples of permanent establishment credits.

1. Example #1 (permanent establishment credits for CESA species mitigation on unprotected private land) – A perched culvert prevents spring-run Chinook salmon (*Oncorhynchus tshawytscha*) from reaching a historic spawning stream. Removing the fish barrier by replacing the culvert with a clear-span bridge that also allows for wildlife movement constitutes a conservation action identified in the RCIS for a focal species. The MCA includes the implementation of the conservation action, a conservation easement, including land both up and downstream expanding wildlife connectivity in the area, and the long-term management and monitoring of the site to maintain fish passage and wildlife connectivity.
2. Example #2 (permanent establishment credits for an LSA Agreement and to satisfy the Water Quality Control Board 401 Water Quality Certification and Waste Discharge Requirements - compensatory mitigation on unprotected private land) – Riparian habitat is found on unprotected private land and the RCIS identifies riparian habitat as an other conservation element. The MCA includes enhancement and restoration actions for improving degraded portions of the stream, including waters of the state, and riparian habitat. The MCA includes a

conservation easement, the long-term management and monitoring of the site and permanent credits.

- c. Temporary establishment credits are created through the implementation of habitat enhancement actions to *restore, enhance, and/or create* ecological resources. These credits do not include the permanent protection of habitat, but they must ensure that those habitat enhancement actions, management, monitoring and protection of the land remain in effect at least until the site of the environmental impact is returned to pre-impact ecological conditions. Protection of the land includes a long-term durability instrument. These may include actions such as the flooding of habitat for aquatic species to use for longer periods of time, reduction of invasive species stressors, and other temporary improvements to fish and wildlife habitat. Temporary establishment credits must include a defined duration that ensures the site's habitat enhancement actions will be concurrent with the impact, and any established habitat will be monitored and maintained at least until the site of the environmental impact is returned to pre-impact ecological conditions.³¹² Therefore, some temporary establishment credits may be in place short-term (e.g., 1 year) or long-term (e.g., more than 10 years); length of temporary credits must be outlined in the draft MCA package for CDFW review. Temporary establishment credits may be created on lands that are not yet permanently protected, on lands that are already permanently protected and have not been used for any mitigation, or have only been used for temporary mitigation that has expired. The temporary establishment credits must result in a clear and quantifiable improvement or positive change for the focal species, non-focal species, and/or other conservation elements above the site's current conditions. The following are examples of temporary establishment credits.

1. Example #1 (Temporary, short-term establishment credits for LSA Agreement mitigation) Removing invasive *Arundo donax* and replanting with native riparian trees and shrub plantings that will be actively maintained, monitored, and managed with a long-term durability agreement for 10 years. This results in a habitat enhancement action included in an RCIS and an MCA is approved. After the 10 years the plantings may continue to flourish; however, there will be no obligation on the part of the MCA sponsor to replace any failed

³¹² Fish & G. Code, § 1856, subdivision (e)

- plantings or protect the restored area beyond the contracted 10 years. Credits for these actions may be considered to help offset, for example, the loss of riparian habitat for a season due to the dewatering a portion of a stream for maintenance; these temporary impacts would occur concurrent with the credits and anticipated or known to last less than the time commitment of the credits. Onsite restoration of the temporarily disturbed habitat will also likely be a requirement in the permit for the impacted site, in addition to any MCA credits used.
2. Example #2 (Temporary, short-term establishment credits for mitigation)
 - Wooden or concrete panels added to a bridge may create day or night roost habitat for some species of bats. Along with a long-term durability agreement for the management of the habitat, this results in a habitat enhancement action included in an RCIS and an MCA is approved. The wooden or concrete panels added to bridges may be used to offset the loss of roosting habitat that occurs nearby when a bridge that concurrently provides roosting habitat will be retrofitted creating a temporary loss of roosting habitat for the bats. Onsite restoration of the temporarily disturbed habitat will also likely be a requirement in the permit for the impacted site, in addition to any MCA credits used.

The MCA must provide a credit evaluation and credit table. The credit evaluation must explain the evaluation undertaken to formulate the quantity and value of each type of credit for each covered focal species, non-focal species, and other conservation elements. The credit table must show the number and type of credits to be released. The credit table should distinguish between credits intended for specific regulatory uses (e.g., CESA, LSA, CEQA).

Use of MCA credits to fulfill mitigation requirements is not guaranteed. The permittee must obtain approval from the appropriate regulatory agency. If CDFW is the permitting agency for CESA or LSA purposes, CDFW's regional permitting staff must approve the use of MCA credits to satisfy mitigation obligations for a particular project.

If an MCA sponsor wishes to add a previously non-listed covered species and covered habitat based on a new listing, this would require an MCA Amendment (see Section 5.7 – Amending an MCA), review of the MCA documents by CDFW to ensure the MCA actions and other requirements are

consistent with the needs of the covered focal species, non-focal species, and/or other conservation element within the RCIS.

The MCA shall also indicate the unit of measurement (e.g., acres, linear feet) and the quantity of each credit type and provide supporting rationale. The description of temporary credits shall indicate the credit duration period and the start and end dates. The start date may be the date the first credits are released or later, such as the date the credits are used. The end date should be based on the start date and the duration to which the MCA commits and must be at least as long as the duration of the impact for which the credits are used.³¹³

5.3.10.2 Credit Release Schedule

The credits described in the Credit Table exhibit for each focal species, non-focal species, and/or other conservation element covered by the MCA shall be released in accordance with the Credit Release Schedule exhibit (see MCA Template Section 10.2 – Credit Release Schedule).³¹⁴ Credit release schedules must be tied to performance-based milestones and performance standards. Permanent credits may be released by phase, as described in the Credit Release Schedule (see MCA Template Section 10.2 – Credit Release Schedule). Temporary credits must also follow the Credit Release Schedule; and may rely on a modified long term management fund (see Section 5.3.9.2 – Long-term Management Funding). The MCA shall include a credit release schedule for CDFW's review and approval.³¹⁵ The Credit Release Schedule must clearly state the number of releases, the standards or triggers that must be met for each release, including when and how many credits are intended to be released and which performance standards must be met prior to each credit release. Performance-based milestones shall include, but are not limited to, the following:

- a. An established MCA.
- b. One of the following real estate instruments is in place, as applicable:
 1. A conservation easement approved by CDFW that has been (1) accepted by a grantee that has been determined to be qualified by CDFW through the due diligence process; (2) deemed consistent with an approved NCCP within the area of the applicable RCIS on the site

³¹³ Fish & G. Code, § 1856, subdivision (e)

³¹⁴ Fish & G. Code, §§ 1856, subdivision (g)(18) and 1798.5(a)(2)(E)

³¹⁵ Fish & G. Code, § 1856, subdivision (h)(1)

of a conservation action³¹⁶; and (3) recorded in the official records of the county in which the MCA is located; OR

2. A long-term durability agreement (i.e., a deed restriction, contract, non-perpetual easement, or other, legally-enforceable instrument) approved by CDFW that ensures the site's habitat enhancement actions will remain in effect at least as long as it would take for the potential impacts covered by the credits to be returned to pre-impact ecological conditions;³¹⁷
- c. Any applicable financial securities have been furnished (see Section 5.3.9 – Financial Securities and Funding).
- d. Any applicable subordination agreement(s) has been executed and recorded.
- e. Implementation of a conservation action (e.g., habitat restoration) or a habitat enhancement action has been completed as outlined in the Development Plan and reviewed and accepted by CDFW.³¹⁸
- f. Temporal ecological performance standards for habitat restoration have been achieved (e.g., standards established for one year, three years, or five years following the initiation of habitat restoration).³¹⁹ Generally, monitoring of credit release performance standards is for a minimum of five years.
- g. Ecological performance standards are fully achieved.³²⁰ Generally, monitoring for performance standards for credit releases is for a minimum of five years.

The Credit Release Schedules shall reserve a substantial share (minimum of 15%) of the total credits for release after the ecological performance standards are fully achieved.³²¹ Credits may be released in full once their performance-based milestones and performance standards are met, approximately three years after the endowment is fully funded.

³¹⁶ Fish & G. Code, § 1856, subdivision (g)(12)

³¹⁷ Fish & G. Code, § 1856, subdivision (h)(2)(A)

³¹⁸ Fish & G. Code, § 1856, subdivision (h)(2)(B)

³¹⁹ Fish & G. Code, § 1856, subdivision (h)(2)(C)

³²⁰ Fish & G. Code, § 1856, subdivision (h)(2)(D)

³²¹ Fish & G. Code, § 1856, subdivision (h)(2)

Credit releases are also contingent on meeting all annual reporting requirements (see Section 5.3.11.2 – Annual Report), payment of CDFW program fees, and a site visit(s) at the appropriate time of year as deemed necessary by CDFW has occurred. The initial implementation fee upon MCA approval (see Section 1.3 – Fees) may include an initial credit release. There is a separate implementation fee for each subsequent credit release. Each fee shall be paid prior to each credit release. CDFW may suspend the sale or use of any previously released credits and may prohibit the release of any additional credits if any CDFW fees have not been paid in full.

CDFW may approve the release of credits for sale or use under an MCA. Requests for credit releases shall be submitted in writing to CDFW for review and approval. For credits to be released, the MCA sponsor shall demonstrate to CDFW that the applicable performance-based milestones and performance standards for the specified credit release have been met and that any associated fees have been paid. CDFW shall determine whether the performance-based milestones or performance standards associated with the credit release have been met and if credits may be released in accordance with what was specified in the Credit Release Schedule.³²² If an MCA does not meet its performance-based milestones or performance standards, CDFW may suspend previously released credits, future credit releases, request site remediation actions to meet performance standards, reduce the total number of credits available for future releases if site remediation or performance standards cannot be met, and/or modify the credit release schedule.³²³ If CDFW reduces the amount of credits released due to underperforming performance standards, subsequent credit releases may be authorized at a later date, and may require an Amendment (see Section 5.7 – Amending an MCA).

5.3.10.3 Credit Sale and Use

Upon CDFW approval, the MCA sponsor may sell or use the credits that have been released in accordance with the MCA.³²⁴ MCA credits may be used to fulfill the mitigation obligations of other regulatory agencies if the agency determines, at their discretion, that the credits meet their requirements. The MCA must explain the conditions under which a credit may be sold, used, or returned back to the MCA sponsor (see MCA Template Section 10.3 – Credit

³²² Fish & G. Code, § 1856, subdivision (h)(4)

³²³ Fish & G. Code, § 1856, subdivision (h)(3)

³²⁴ Fish & G. Code, § 1856, subdivision (f)

Sale and Use).³²⁵ Once a credit is sold by the MCA sponsor, that credit may not be sold or transferred to another entity.³²⁶ Previously sold credits, that have not been used, may be returned directly back to the MCA sponsor at the MCA sponsor's discretion. If a credit is returned, a credit receipt must be completed, and the MCA sponsor must update the credit ledger to document the transaction. Once the transaction has been properly documented and approved, the MCA sponsor may subsequently sell any returned credits to another recipient. In order to returned credits back to the ledger the following conditions must be met:

- a. The MCA is open;
- b. The original purchaser of the unused credits obtains written documentation of MCA sponsor's conditional approval to return credits and provides a copy to CDFW for CDFW review and written approval;
- c. MCA sponsor enters the returned credits in the ledger.
- d. Upon the return of the credits specified above, the MCA sponsor shall submit to the Parties listed in the notices section of the MCA, and approving/regulatory agency(ies)/authorities associated with those credits copies of the following:
 1. Credit Receipt;
 2. Payment receipt;
 3. An updated ledger.

If the MCA service area overlaps with the service area of any established banks with the same credits available, the Credit Receipt shall include a section for each entity purchasing the credits to outline their reasoning for not purchasing from the established bank (see Section 5.2.3 – Consideration of Established Conservation and Mitigation Banks).

Additional information regarding terms of sale, use, and the return of credits can be found in the MCA Template Section 10.3 – Credit Sale and Use.

³²⁵ Fish & G. Code, § 1856, subdivision (g)(15)

³²⁶ Pursuant to Streets and Highway Code 800.6(b), the Department of Transportation may purchase credits then allow other transportation agencies to use. This use must be reflected in the Credit Receipt of the sale and use of credits.

5.3.10.4 Credit Reporting

Each MCA must include an explanation of how the included credits will be accounted for, including the specific methods for reporting and maintaining a record of all credits created, released, sold, used or returned.³²⁷ This shall include a Credit Receipt and a credit ledger (see MCA Template Section 10.4 – Credit Reporting).³²⁸

- a. A template Credit Receipt is available as an exhibit. Any modifications to the template shall be made in track changes for review and approval by CDFW. The Credit Receipt shall, at a minimum, include the following:
 1. MCA name;
 2. Name, address, and phone number of the entity receiving credits;
 3. Type(s) of credit transaction(s): Sale, use, or return;
 4. Date of credit transaction;
 5. Number of credits sold, used, and/or returned;
 6. Project name associated with credits used, if applicable;
 7. Permit type and number, if applicable;
 8. CEQA clearing house number, CEQA project name and NEPA tracking number, if applicable;
 9. Resource agency project file numbers, if applicable;
 10. A section for each entity purchasing the credits to outline their reasoning for not purchasing the same kind of credit from an established bank with an overlapping service area.
 11. A statement that the MCA sponsor represents and warrants that it has good title to the credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances;
 12. A statement that the MCA sponsor covenants and agrees with the buyer to warrant and defend the sale of the credits hereinbefore described against all and every person and persons whomsoever lawfully claiming or to claim the same;

³²⁷ Fish & G. Code, § 1856, subdivision (g)(15)

³²⁸ Fish & G. Code, §§ 1856, subdivision (g)(18) and 1798.5, subdivision (a)(2)(E)

13. Signature of the MCA sponsor.
- b. The credit ledger (to be attached as an exhibit) shall include, at a minimum:
 1. MCA name;
 2. MCA sponsor;
 3. Transaction number;
 4. Name, address, phone number of entity receiving credits;
 5. Types of credits (including sub-types if applicable) being sold, used, or returned;
 6. Number of credits (including sub-types if applicable) being sold, used, or returned;
 7. Date of credit sale, use, or return;
 8. Type of credit transaction (sale, use, or return);
 9. Total number of each type of credit released by CDFW to date;
 10. Total number of each type of credit sold to date (inclusive);
 11. Total number of each type of credit returned to date (inclusive);
 12. Total number of each credit type used to date (inclusive);
 13. Balance of each type of credit remaining;
 14. Project name associated with **credit used**;
 15. Permitting agency;
 16. Permit type and number associated with credits used;
 17. CEQA clearing house number (if applicable);
 18. Agency project file numbers associated with credit used.

5.3.11 Reporting

The MCA sponsor and the property owner are responsible for completing and submitting various reports as described in the subsections below and the MCA Template sections referenced.

All reports must be submitted in both Word and PDF electronic file formats. Reports must be completed and submitted timely for the authorization of subsequent credit releases.

If the MCA sponsor, or owner, as applicable, fails to submit complete reports on time, they may be considered in default. Default measures are described in the MCA Template Section 13.1 – Enforcement Provisions.

5.3.11.1 Annual Inflation Adjustments to Endowment Inflation Report

For MCAs that are utilizing an endowment fund to provide long-term protection and management of the MCA, the MCA sponsor must submit an Endowment Inflation Report annually until the endowment is fully funded. This report must be submitted to CDFW and the endowment holder, by April 1st of each year following the first deposit. The report shall include both the adjusted endowment amount and the resulting adjusted endowment deposit amounts (see MCA Template Section 11.1 – Annual Inflation Adjustments to Endowment Inflation Report).

5.3.11.2 Annual Report

Prior to MCA closure, the MCA sponsor shall be responsible for any annual reports associated with the MCA's development and interim management tasks described in the Interim Management and Monitoring Plan. After MCA closure, the property owner shall be responsible for annual reporting of the MCA's long-term management tasks described in the Long-term Management and Monitoring Plan. Annual reports must be submitted to CDFW and the RCIS implementing entity on or before January 31st of each year following the approval of the MCA. Each annual report shall cover the period from January 1st through December 31st. (See MCA Template Section 11.2 – Annual Report). If the MCA sponsor fails to submit complete reports on time, the MCA sponsor is in default per MCA Template Section 13.1 – Enforcement Provisions.

All Annual Reports shall include a cumulative evaluation of the metrics associated with the RCIS, including how effective the MCA actions have been in offsetting the identified threats to focal species and in achieving the RCIS's goals and objectives. The information shall be based on relevant, current, best available information and analysis. Based on the reporting components of the Interim Management and Monitoring Plan or the Long-term Management and Monitoring Plan, the metrics must incorporate both

area and habitat quality and shall be used to measure the net ecological gain from the implementation of the MCA actions as compared to baseline conditions.

5.3.11.3 Credit Sale and Use Reporting

The MCA sponsor shall submit a copy of the fully executed Credit Receipt (see Section 5.3.10.4 – Credit Reporting, and MCA Template Section 10.4.1 – Credit Receipt) and an updated credit sale and use ledger (see MCA Template Section 10.4.2 – Credit Ledger) to CDFW upon every transaction of credits, which may include a credit sale, use, combined sale and use, or return (see MCA Template Section 11.3 – Credit Sale and Use Reporting).

5.3.12 Responsibilities

The MCA must describe the responsibilities of the MCA sponsor, CDFW, and the property owner. The responsibilities include the following:

5.3.12.1 Responsibilities of the MCA Sponsor and Property Owner

- a. Without limiting any of its other obligations, including without limitation, those described in the Conservation Easement, the MCA sponsor and property owner each hereby agrees and covenants the following responsibilities during the time the MCA is in operation:
 1. The MCA sponsor and property owner shall, prior to the execution of the Conservation Easement included as Exhibit I, provide CDFW with satisfactory evidence that the conservation easement grantee is authorized to hold conservation easements pursuant to California Civil Code § 815.3 and Government Code §§ 65966-65967, has a primary purpose of long-term land stewardship for conservation purposes consistent with the purpose of the MCA, and has agreed to be the conservation easement grantee.
 2. The MCA sponsor shall be responsible for all activities and costs associated with the establishment and operation of the MCA, including but not limited to construction, planting, remedial action, documentation, maintenance, management, monitoring, and reporting, until completion of the interim management period. Some responsibilities and costs, including but not limited to remedial action and actions specified in subparagraphs iii and vii, below, will extend past the Interim Management Period until Bank closure.

3. The MCA sponsor shall perform the actions described in this MCA and its exhibits to support all credits that project proponents/action agencies secure. The MCA sponsor shall provide CDFW with the credit receipt exhibit for all credits secured by project proponents/action agencies that confirms that the MCA sponsor will continue to perform the aforementioned actions.
4. The MCA sponsor or property owner shall not discharge or release on, to or from the MCA site, or permit others to discharge or release on, to or from the MCA site, any material, waste, or substance designated as hazardous or toxic or as a pollutant or contaminant under any Federal, state, or local environmental law or regulation (each a hazardous substance).
5. The property owner shall not create or suffer any lien or encumbrance upon the property included in the MCA other than as set forth in the property assessment and warranty approved by CDFW. The property owner shall not execute, renew, or extend any lien, lease, license, or similar recorded or unrecorded right or interest on any property included in the MCA without the prior written consent of CDFW and the grantee, if a conservation easement has been granted.
6. The MCA sponsor or property owner shall not construct or install any structure or improvement on, or engage in any activity or use of, the MCA site, including mineral exploration or development, excavation, draining, dredging, or other alteration of the MCA site that is prohibited by, or not consistent and in accordance with this MCA and its exhibits.
7. The MCA sponsor shall ensure that the MCA is managed and maintained in accordance with the Development Plan and Interim Management and Monitoring Plan, this MCA and its exhibits prior to MCA closure.
8. The property owner shall allow, or otherwise provide for, access to the MCA site by MCA sponsor, CDFW, CE grantee or any third-party beneficiary to the CE, as described in the Conservation Easement.
9. The property owner shall grant to MCA sponsor all rights and authority necessary, and shall not limit the MCA sponsor, in performing its responsibilities and obligations pertaining to the MCA site in accordance with this MCA and its exhibits.

10. The property owner shall ensure that the MCA is managed and maintained in accordance with the Long-term Management and Monitoring Plan, this MCA, and its exhibits.

- b. Reasonably foreseeable technical problems, or unanticipated or increased costs or expenses associated with the implementation of actions called for by this MCA or changed financial or business circumstances in and of themselves shall not serve as the basis for modifications of this MCA or extensions for the performance of the requirements of this MCA.
- c. An extension of one compliance date based upon or related to a single incident shall not extend any subsequent compliance dates.

5.3.12.2 Responsibilities of CDFW

- a. CDFW will make a good faith effort to review the annual reports and remedial action plans within sixty calendar days from the date of receipt of complete submittal. If CDFW is unable to complete its review within the time specified in this section, this fact will be reflected in any schedule established for performance of remedial action and any evaluation of timely performance of remedial action by MCA sponsor.
- b. CDFW shall conduct compliance inspections for any purpose(s) it determines as necessary to assess compliance with this MCA.

Language for standard responsibilities is included in the MCA Template Section 12.1 – Responsibilities of the MCA Sponsor and Property Owner, and Section 12.2 – Responsibilities of CDFW.

5.3.13 Other Provisions

The MCA shall include enforcement provisions,³²⁹ including but not limited to, provisions for notification of violations, opportunity to cure or remedy any violation, length of time to cure or remedy any violation, dispute resolution procedures, sanctions for minor violations, and suspension and revocation for significant uncured violations. The enforcement and dispute resolution provisions are included in the MCA Template Section 13 – Other Provisions.

The MCA Template also specifies several other provisions that the MCA must also contain, including: **extraordinary circumstances**, controlling law, no limitation of authority, modification and amendment, termination of

³²⁹ Fish & G. Code, § 1856, subdivision (g)(16)

agreement, entire agreement, successors and assigns, partial invalidity, notices, counterparts, no third-party beneficiaries, MCA program fees and liabilities.

The following are included in MCA template:

5.3.13.1 Enforcement Provisions³³⁰

- a. If CDFW determines that the MCA sponsor has defaulted in the performance of an obligation under the terms of this MCA, CDFW shall send a written notice (Notice of Default) to the MCA sponsor describing the violation and requesting to meet and confer to determine the appropriate action(s) to take to cure the default. CDFW and the MCA sponsor shall meet and confer within thirty days of the MCA sponsor's receipt of such Notice of Default.
- b. If CDFW and the MCA sponsor fail to resolve the issue through the meet-and-confer process, CDFW shall send a written notice (Notice of Violation) to the MCA sponsor describing the violation and instructing the MCA sponsor to cure the violation within thirty days. If the cure reasonably requires more than thirty days, the MCA sponsor shall so inform CDFW in writing and shall indicate how many days it will take to cure the violation. CDFW may, in its reasonable discretion, determine in writing whether to extend the cure period beyond the initial thirty days.
- c. If the MCA sponsor fails to cure the violation within thirty days after receipt of the Notice of Violation, or if CDFW grants a longer cure period and the MCA sponsor fails to begin the cure within thirty days of receipt of the Notice of Violation and to continue diligently to pursue and complete the cure in good faith, CDFW may, in its sole discretion, suspend credit sale and/or use, reduce the amount of available credits, utilize financial securities, or suspend or terminate this MCA. Any suspension or revocation of this MCA pursuant to this section shall be made in writing and shall be signed by the Director, Chief Deputy Director, or Deputy Director for Ecosystem Conservation of CDFW.
- d. In the event of suspension or termination of this MCA pursuant to this section the MCA sponsor shall remain liable for the implementation, maintenance, and management of any conserved lands or habitat enhancements for which mitigation credits have been released.

³³⁰ Fish & G. Code, § 1856, subdivision (g)(16)

- e. If CDFW determines that the MCA is operating at a credit deficit (i.e., that credit sales made exceed the credits authorized for release, as adjusted in accordance with this MCA), CDFW shall send a Notice of Default. Upon receipt of notification, MCA sponsor shall cease credit sales and credit use immediately. It is the MCA sponsor's responsibility to meet with CDFW to determine how to resolve the deficit or if credits must be sold back to the MCA sponsor. All credit sales or use can only resume with CDFW review and notice that the default has been resolved.
- f. If the MCA sponsor fails to submit or complete required annual reports in a timely manner, the MCA sponsor is in default resulting in an automatic suspension of credit sale and use effective 30 days after the report is due. The suspension will be lifted within 10 calendar days after CDFW receives a complete annual report. If the Property Owner fails to submit complete required annual reports in a timely manner, the Property Owner is in default. CDFW will notify the Property Owner of the date by which the annual report must be made complete.

5.3.13.2 Extraordinary Circumstances

In the rare event (an extraordinary circumstance) in which the MCA can no longer serve its intended purpose as compensatory mitigation, in whole or in part, for the specific resources for which it was established, CDFW may determine that the MCA sponsor is relieved of some or all of its obligations under this MCA if the failure or delay in the performance of its obligations is caused by, directly or indirectly, forces beyond its control, including, accidents, acts of war or terrorism, civil or military disturbances, natural catastrophes or acts of God; it is understood that the MCA sponsor shall use reasonable efforts which are consistent with accepted practices to resume performance as soon as practicable under the circumstances. CDFW will determine whether extraordinary circumstances exist that will excuse performance. This may result in CDFW limiting or suspending the creation of undeveloped credits and/or the sale any previously released credits.

5.3.13.3 Controlling Law

This MCA shall be governed by the provisions of California Fish and Game Code sections 1850-1859, as amended, and CDFW's Regional Conservation Investment Strategies Program Guidelines (Guidelines), as amended. In the event of any conflict, sections 1850-1859 govern the interpretation of the Guidelines and the MCA, and the terms of the Guidelines also govern the interpretation of the MCA.

5.3.13.4 No Limitation of Authority

This MCA is not intended, nor shall it be construed, to limit CDFW's authority to fulfill its statutory or regulatory responsibilities or to otherwise limit the powers afforded to either Party by applicable law.

5.3.13.5 Modification and Amendment

This MCA, including its exhibits, may be amended or modified only with the written approval of CDFW and the MCA sponsor or as required by law.

5.3.13.6 Termination of Agreement

The MCA sponsor may terminate this MCA upon ninety (90) days written notice to CDFW; provided, however, that the obligation to ensure the perpetual protection and management of conservation actions and the long-term durability of habitat enhancement actions resulting in the creation of mitigation credits shall survive termination of this MCA. CDFW may terminate this MCA pursuant to MCA Template Section 13.1 – Enforcement Provisions. Once terminated, any unsold credits are void. The MCA sponsor must give the same ninety (90) day written notice to anyone who has purchased credits and not used them. The purchaser shall either use the credits immediately or they may return the credits to the MCA sponsor.

5.3.13.7 Entire Agreement

This MCA, including its exhibits, constitutes the complete, final, and exclusive terms and conditions governing the establishment of the MCA and the creation, sale and use of mitigation credits and supersedes all prior and contemporaneous discussions, negotiations, understandings, or agreements of the Parties.

5.3.13.8 Successors and Assigns

This MCA, and each of its covenants and conditions, will be binding on and will inure to the benefit of the Parties and their respective successors and assigns, subject to the limitations on transfer set forth in this MCA. The MCA sponsor may assign or otherwise transfer the MCA only with the prior amendment approval by CDFW. Any assignment or transfer made without the prior written approval of CDFW may, at the sole discretion of CDFW, result in the termination of this MCA and the invalidation of any credits created or sold after the date of the assignment or transfer.

5.3.13.9 Partial Invalidity

If a court of competent jurisdiction holds any term or provision of this MCA to be invalid or unenforceable, in whole or in part, for any reason, the validity and enforceability of the remaining terms and provisions, or portions of them, will not be affected unless an essential purpose of this MCA would be defeated by loss of the invalid or unenforceable provision.

5.3.13.10 Notices

Any notice, demand, approval, request, or other communication permitted or required by this MCA will be in writing first via electronic mail with read receipt and if necessary, via certified U.S. mail, postage prepaid. Addresses for purposes of giving notice are set forth below. Either Party may change its notice address by giving notice of change of address to the other Party in the manner specified in this section at least thirty (30) days prior.

5.4 Procedures for Creating Credits from a Project's Excess Ecological Benefits

If a project would create ecological benefits that exceed the compensatory mitigation requirements needed for the project pursuant to CESA,³³¹ LSA Agreements,³³² or CEQA,³³³ the project proponent may seek to establish credits for the project's excess ecological benefits through an MCA.³³⁴

Examples of such projects include, but are not limited to:

- a. Creation or modification of setback levees that result in the creation of more floodplain or riparian habitat than is required to compensate for project impacts.
- b. Transportation improvements that remove barriers to fish or wildlife movement and improve the quality of habitat or address stressors to wildlife more than is required to compensate for identified construction impacts.

³³¹ Fish & G. Code, §§ 2050 – 2100

³³² Fish & G. Code, §§ 1600 – 1617

³³³ Pub. Resources Code, §§ 21000 – 21189

³³⁴ Fish & G. Code, § 1856, subdivision (i)(1)

For projects where improvements to conservation elements exceed the mitigation needed to offset a project's impacts, the project proponent may propose an MCA with terms and conditions under which credits may be created from the excess mitigation. The MCA may be submitted concurrently with, or following submittal of a CEQA document, LSA Agreement notification, or CESA individual take permit (ITP) application. When an MCA is submitted concurrently with a CEQA document, LSA notification, or ITP application, CDFW shall, to the maximum extent practicable, complete reviews of the MCA concurrently with its review of those documents or approvals.³³⁵

A draft MCA package submitted concurrently with, or after, a CESA ITP application or LSA Agreement notification is submitted, shall meet the same MCA requirements indicated in the statute and in these Guidelines. For those projects that improve ecological benefits, such as improved wildlife habitat or reduced stressors to wildlife, to the extent that exceeds compensatory mitigation requirements, construction of the project itself may be a performance-based milestone.

5.5 Review and Approval Process

All MCA submittals, including MCA Concepts, frameworks, and draft MCAs, shall be submitted as both Word and PDF electronic files that are separate and clearly labeled, and must contain all the required information and documents described in Fish and Game Code section 1856(f) and these Guidelines. Some elements of the MCA may not be available or finalized at the time it is submitted. These have been identified throughout the guidelines and the MCA checklist to be submitted and finalized for MCA establishment (see Section 5.3.8 – MCA Establishment). An MCA shall be based on the requirements of the version of the RCIS Program Guidelines that is in effect at the time the draft MCA package is submitted to CDFW for review. For information regarding the submittal of all necessary documents and files, see Section 1.4 – Program Contacts. Fees for each of the MCA submittal products and phases are listed in Section 1.3 – Fees. CDFW reserves the right to disapprove any submittal that does not adhere to Fish and Game Code or these Guidelines. CDFW requests limiting changes to the MCA Template. All edits, replaced text, deletions, or changes to the MCA Template language

³³⁵ Fish & G. Code, § 1856, subdivision (i)(1)

must be made in track changes to facilitate review and approval or editing by CDFW.

5.5.1 MCA Concept

An MCA concept is a brief concept-level proposal that is optional but recommended when an MCA sponsor is scoping for an MCA, contemplating a specific MCA idea, or for those new to the MCA process. The MCA concept allows CDFW to provide initial feedback on a particular site or if the action proposed is adequate to support the development of an MCA. The MCA concept review process allows for early collaboration between CDFW and the MCA sponsor to clarify the intent of the MCA and to identify potential benefits and issues. The MCA concept will be reviewed and evaluated by CDFW to determine if it is feasible as an MCA. CDFW may require a visit to the MCA site and/or request additional information for clarification and information to aid the MCA sponsor and CDFW on the draft MCA review.

The concept step is intended to identify potential obstacles early so that the MCA sponsor may resolve issues, revise and refine the MCA concept, or decide not to pursue the MCA prior to investing in the development of the full draft MCA package. The MCA sponsor is not required to submit an MCA concept and may instead elect to begin preparation of a draft MCA package. However, if CDFW determines that the draft MCA package is not complete, CDFW may decide, in consultation with the MCA sponsor, that they should first submit an MCA concept.

5.5.2 MCA Framework

An MCA sponsor may develop and submit an optional advance mitigation framework to CDFW for review and approval prior to submitting a draft MCA package.

The MCA sponsor shall submit Appendix B – MCA Framework Checklist for review and approval by CDFW. The Framework with the Framework Checklist must include the following:

- a. A process and the terms and conditions on which CDFW will base its review and approval of mitigation credits on future sites.
- b. A description of the conservation actions or habitat enhancement actions that are consistent with, and will measurably advance the conservation

objectives of, an approved regional conservation investment strategy, and will be used to create mitigation credits.

- c. A prioritization strategy for selecting future sites to implement the conservation actions or habitat enhancement actions described in the Framework.

In addition to these requirements, the MCA sponsor must submit the framework fee (see Section 1.3 – Fees), and they can submit various sections of the MCA Template for CDFW review and approval when submitting the Framework Checklist. The framework allows the MCA sponsor to get sections of the draft MCA package completed and approved prior to the development of one or more MCA sites. Using the Framework may result in a quicker review of a future draft MCA packages, may provide certainty to the MCA sponsor for approved components of a future MCA, and allow for the review of a draft MCA package for one or multiple sites all at once or over time.

Submittal of the Framework template must include all the sections of the MCA Template that the MCA sponsor wishes CDFW to review and approve at time of submission.

Once approved, if the MCA sponsor wishes to change or add sections to a previously approved Framework, an amendment will be required, which will be subject to an amendment fee (see Section 1.3 – Fees). Substantial changes may be viewed as a new Framework, at CDFW's discretion. When a draft MCA package is submitted using an approved Framework, the MCA sponsor must provide a tracked changes copy of the approved Framework for the sections already approved. CDFW will, to the greatest extent feasible, not alter the approved sections. CDFW retains the ability to review and update any sections necessary to approve the MCA, such as the location, the specific conservation actions or habitat enhancement actions, the site location, and the resulting habitat and **advanced mitigation** credits. An approved Framework may be used for one or multiple appropriate MCAs.

5.5.3 Submission and Review of the Draft MCA Package

The MCA sponsor must submit a complete draft MCA package to CDFW for official review.³³⁶ A complete draft MCA package includes the MCA

³³⁶ Fish & G. Code, § 1856, subdivision (g)

Template with all applicable exhibits and any necessary letters, the MCA checklist (Appendix C) indicating that all necessary checklist components are included, and the required MCA review fees (see Section 1.3 – Fees). Once the complete draft MCA package is received, CDFW will commence with the completeness review as described below.

5.5.3.1 Completeness Review

The completeness review is meant to determine if all the required completeness conditions have been met and that all the necessary elements required in the MCA Template and checklist are included in the package. The completeness review does not assess the content of the MCA nor its adequacy for CDFW approval. The review of the draft MCA package's content occurs during the substantive review phase (See Section 5.5.3.3 – CDFW Substantive Review).

If CDFW deems the draft MCA package incomplete, CDFW will explain in writing to the MCA sponsor what additional information or elements are required to complete the draft MCA package. CDFW may also recommend that the MCA sponsor submit an MCA concept instead of a revised draft MCA package. CDFW will not resume the MCA review process until all the requested additional information or elements are received to deem the draft MCA package complete.

If CDFW deems the draft MCA package complete, CDFW will provide written notification to the MCA sponsor that the MCA is provisional complete. The MCA sponsor must provide CDFW with an electronic version of the draft MCA package that is edited for web accessibility (see Section 1.5 – Accessibility) in order to post it on CDFW's internet website for public review.

5.5.3.2 Public Review

Within thirty (30) days of deeming a draft MCA package complete and receiving an electronic version of the draft MCA package that is edited for web accessibility (see Section 1.5 – Accessibility), CDFW shall:

- a. File a notice of availability of the draft MCA with the Governor's Office of Planning and Research and the city and county clerks of any cities or counties whose jurisdictions overlaps with the MCA or its service area, in part or in whole.³³⁷

³³⁷ Fish & G. Code, § 1856, subdivision (g)

- b. Make the draft MCA available to the public on CDFW's internet website (see Section 1.4 – Program Contacts) for review and comment for a period of at least 60 days. At that time, CDFW shall send an email notification to announce the availability of the draft MCA to any public agency, organization, or individual who has filed a written request to CDFW to receive such notifications and implementing entities for overlapping NCCPs, and RCIS sponsors for adjacent RCISs. Depending on the scope, length, and complexity of the draft MCA, CDFW may determine that the public review period must be longer than 60 days.

At the end of the comment period, the MCA sponsor and CDFW must coordinate to ensure that both entities have a copy of all public comments received. The MCA sponsor shall provide CDFW with written draft responses to all comments received during the public comment period. CDFW shall review the draft responses, and potentially provide additional comments or revisions.³³⁸

5.5.3.3 CDFW Substantive Review

After deeming the draft MCA package complete and generally concurrent with the public review, CDFW will conduct its substantive review. The substantive review is a thorough review by CDFW of the draft MCA package for accuracy and adequacy and may identify additional information needed before approving the MCA. Depending on the scope, length, and complexity of the draft MCA package, CDFW may require additional time beyond the public review period to complete the substantive review. Upon completion of the substantive review, and with consideration of the public comments and responses, CDFW shall inform the MCA sponsor in writing whether CDFW approves the draft MCA package, approves it with revisions, or disapproves it.³³⁹ If CDFW approves the draft MCA package, the draft will be considered a final MCA for the purposes of approval and implementation (see Section 5.5.4 – Submission and Review of the Final MCA). If the draft MCA package is approved with revisions, CDFW shall include comments in the letter to the MCA sponsor that identify any required and suggested changes to the draft MCA package. If CDFW rejects a draft MCA package, fees shall not be returned to the MCA sponsor.

³³⁸ Fish & G. Code, § 1856, subdivision (g)

³³⁹ Fish & G. Code, § 1856, subdivision (g)

5.5.4 Submission and Review of the Final MCA

If the draft MCA package is approved contingent on revisions, the MCA sponsor shall make the revisions and submit a final MCA to CDFW within 120 days. If the final MCA is submitted after that time, it may be treated as a new application and be subject to new fees. If CDFW determines that there are revisions beyond what was conditionally approved and they are deemed substantial, then CDFW may treat it as a new or amended application, both of which are subject to new fees, and may require another public review.

5.5.5 Final MCA Approval

Once CDFW has determined the final MCA to be complete and adequate, CDFW will approve the MCA. The MCA sponsor must coordinate with any other signatories to obtain signatures. The MCA sponsor shall begin establishing the MCA, once the final MCA has been signed by all signatories and the MCA sponsor has obtained all other necessary local, state, and federal authorizations and has met and conferred with CDFW regarding CEQA (see Section 5.3.8 – MCA Establishment).

Once the draft MCA package is approved, CDFW may request the MCA sponsor to provide CDFW with an electronic version of the approved MCA package that is edited for web accessibility (see Section 1.5 – Accessibility) to place on CDFW's internet website.

5.6 Publicly Available MCA Credit Information

Upon MCA establishment (see Section 5.3.8 – MCA Establishment), CDFW shall make the MCA's credits and release information available on CDFW's internet website.³⁴⁰ This shall include documentation, provided by the MCA sponsor, demonstrating that the appropriate performance-based milestones for each credit release have been met. This could include an annual report or separate report, as deemed appropriate by CDFW, as an electronic version that is edited for web accessibility (see Section 1.5 – Accessibility) to place on CDFW's internet website.

³⁴⁰ Fish & G. Code, § 1856, subdivision (l)

5.7 Amending an MCA

An MCA may only be amended if CDFW and the MCA sponsor agree to the amendment in writing or if CDFW determines, in its sole discretion, that an amendment is required by law or changed circumstances. The MCA sponsor can propose a minor or major amendment by submitting a draft of the amendment(s) and the appropriate fee to CDFW for review and approval (see Section 1.3 – Fees). The MCA sponsor shall coordinate any amendments with any other signatory agencies.

A simple MCA amendment is any amendment that relates to the organization or administration of the MCA including, but not limited to, changes in MCA name, property ownership, address, MCA sponsor, or endowment holder. A simple amendment would not modify the scope or nature of the MCA or any MCA action.

A complex amendment means any amendment that relates to the operation, management, or other material element of the MCA. Review and approval of complex amendments will vary depending on the nature of the amendment. Major amendments may include, but are not limited to the following:

- a. Adding a site;
- b. Adding conservation actions and habitat enhancement actions;
- c. Altering existing credits or proposing the creation of additional credits;
- d. Altering the credit-release schedule;
- e. Expanding the service area.

A complex amendment would have to go through the same submittal, review, and approval processes described in Sections 5.5 – Review and Approval Process, and adding a site or adding conservation actions or habitat enhancement actions may require another public review. If an MCA sponsor applies for a simple amendment, and CDFW deems it to be a complex amendment, the MCA sponsor shall pay the difference between the two amendments.

Appendix A – MCA Template

MITIGATION CREDIT AGREEMENT TEMPLATE

INSTRUCTIONS FOR MCA PREPARERS

(To be removed prior to final execution of the Mitigation Credit Agreement)

Guidance for the Mitigation Credit Agreement (MCA) portion of the Regional Conservation Investment Strategies (RCIS) Program is located in Section 5 of the RCIS Program Guidelines. The Guidelines provide information, suggestions, and instructions regarding MCAs, and shall be used in conjunction with this template. Section 5.3 of the Guidelines describes the required information to be included in a Mitigation Credit Agreement. The definitions of MCA terms can be found in Section 2 of the RCIS Program Guidelines.

Language that is bracketed, bold, and italicized indicates directions for items or information that the MCA sponsor must provide. This text must be replaced with information relevant to the MCA. Text that is within brackets, but not bold or italicized, is template language that must be selected based on the proposed MCA and shall not otherwise be edited.

Do not change the exhibit numbers specified in this template. If an exhibit is optional, or not required, indicate the exhibit is not applicable in the sections they are referenced. All edits, replaced text, deletions, or proposed changes to template language within this document must be made in track changes to facilitate review and approval or editing by CDFW's program staff and Office of General Counsel. Any draft MCA provided to CDFW that does not show all edits in track changes will be summarily rejected and returned to the MCA sponsor.

[MCA FULL NAME] MITIGATION CREDIT AGREEMENT

This Mitigation Credit Agreement (MCA) is made by and between the California Department of Fish and Wildlife (CDFW) and ***[If any other agencies are signing the MCA as a signatory agency, insert the name of each signatory agency]*** and ***[Insert name of person or entity]***, as the sponsor (MCA sponsor) of the ***[Insert Full MCA name]*** Mitigation Credit Agreement using the ***[Insert date of the RCIS Program Guidelines in effect at the time of MCA submission]*** RCIS Program Guidelines. CDFW and the MCA sponsor are referred to in this MCA collectively as the "Parties" and individually as a "Party."

RECITALS

- A. The MCA sponsor is ***[Insert the name of the person or entity that is the sponsor]***, which is an ***[Insert one of the following: individual or an entity (If the MCA sponsor is an entity, specify the type of entity, and if applicable, its member agencies, and cite its enabling statute)]***.

- B. CDFW is an agency of the State of California with jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. CDFW serves as the state trustee for fish and wildlife resources and is charged with the interpretation, administration, and implementation of the Fish and Game Code.
- C. Fish and Game Code Sections 1850-1859 establish a program for voluntary species and habitat conservation at a regional scale, including mechanisms for advance mitigation through an MCA.
- D. Fish and Game Code Section 1856 authorizes CDFW, in its discretion, to enter into an MCA with an individual or entity to facilitate conservation actions and habitat enhancement actions within the area of an approved regional conservation investment strategy (RCIS) and to authorize the creation, sale, and use of mitigation credits deriving from those actions.
- E. The **[Insert the name of RCIS in which the MCA is located ([Insert the short name of RCIS])]** was approved by CDFW on **[Date of CDFW approval]**. **[Provide a one or two sentence description of the geographic location and extent of the RCIS]**.
- F. The MCA sponsor seeks to design and implement **[Insert one of the following: conservation actions, habitat enhancement actions, or conservation actions and habitat enhancement actions]** that measurably advance the conservation goals and objectives of the **[Insert the short name of RCIS]** and to create mitigation credits that can be used to mitigate for impacts to **[Insert all applicable: focal species, non-focal species, and other conservation elements]**.
- G. The MCA sponsor and CDFW thus seek to enter into this Agreement to facilitate the design, implementation, protection, and management of **[Insert one of the following: conservation actions, habitat enhancement actions, or conservation actions and habitat enhancement actions]**, the creation of Mitigation Credits based on those actions, and to establish the terms and conditions under which those Mitigation Credits may be sold or used.
- H. The **[Insert the short name of RCIS]** includes the following components required to create this MCA: An outline for adaptive management and monitoring for the resources identified in this MCA; a process for updating the scientific information used in the RCIS, and for tracking the progress of, and evaluating the effectiveness of its, conservation actions and habitat enhancement actions, and it identifies **[Insert the public or private entity]** as the entity that will be responsible for evaluating the effectiveness of those actions.ⁱ
- I. The **[Insert name of MCA]** site is not already permanently protected and is not currently in use, to fulfill compensatory mitigation for one or more projects.ⁱⁱ
- J. The **[Insert name of MCA]** will not be utilized to fund or offset the costs of the design, construction, or mitigation of new Delta water conveyance facilities.ⁱⁱⁱ

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals, the Parties hereby agree as follows:

1. Name of the MCA

This MCA shall be known as the **[Insert the full name and, if necessary, an abbreviated name for the MCA, as indicated in the Guidelines, Section 5.3.1]**^{iv}.

2. Supporting Regional Conservation Investment Strategy

The Regional Conservation Investment Strategy on which this MCA is based is the **[Insert name of RCIS and provide a brief description of the RCIS in which the MCA is located including the number of focal species, non-focal species, and other conservation elements it addresses, as indicated in the Guidelines, Section 5.3.2]**.^v

3. Purpose of the MCA

The purpose of this MCA^{vi} is to set forth the agreement of the Parties regarding the creation, use, operation, and maintenance of the MCA. The purpose of the MCA is to design and implement **[Insert one of the following: conservation actions, habitat enhancement actions, or “conservation actions and habitat enhancement actions]** that measurably advance the conservation goals and objectives of the **[Insert the short name of RCIS]** and to create Mitigation Credits that can be used to compensate for impacts to **[insert the specific focal species, non-focal species, and/or other conservation elements]**.

To create these credits the MCA will implement the following actions: **[Insert the name(s), title(s), or number(s) of the specific action(s) identified in the RCIS that this MCA will implement, including if it is a conservation and/or habitat enhancement action. If there are multiple actions that will be implemented in this MCA, provide the information as a list. Include how each action will measurably advance the conservation goals and objectives of the RCIS.]**

The MCA sponsor **[if property owner is different from MCA sponsor, add: and property owner]** shall **[Insert one of the following as applicable: preserve, restore, establish, and/or enhance habitat]** and then manage and maintain covered focal species, non-focal species, and/or other conservation elements in accordance with this **[insert MCA name]** MCA, the Development Plan, Interim Management and Monitoring plan, and Long-term Management and Monitoring Plan.

[See the Guidelines, Section 5.3.3]

4. MCA Site and Service Area Information

4.1. Property Ownership Description

[Describe the property ownership of each proposed MCA site and indicate if any MCA site is owned by a public agency or not.]

[If the MCA occurs on public lands, the MCA sponsor shall submit, with the draft MCA package, a letter or document signed by the public agency landowner indicating its approval to include those lands in the MCA. Include the following statement: The MCA occurs on publicly owned land; see the attached letter that indicates **[Enter the name of the public agency landowner]** has approved the inclusion of their land in this MCA and which allows CDFW and the conservation easement grantee to enforce all terms and conditions of the MCA on its lands.]

[If the MCA sponsor and the property owner are the same, include the following statement: For this MCA, the MCA sponsor and property owner are the same entity. Throughout the document, the roles and responsibilities of the MCA sponsor and the property owner are referenced separately to highlight their different capacities.]

4.2. Contact Information

Attached is the name and contact information for each of the following: MCA sponsor, property owner, land manager, conservation easement grantee or long-term durability agreement entity, endowment holder (if applicable/optional), and any contractors or consultants (if applicable/optional), as indicated in the Guidelines, Section 5.3.4.2, and attached as Exhibit A, and incorporated herein by this reference.^{vii}

4.3. Qualifications

[Describe the qualifications of the following, separately as applicable, as indicated in the Guidelines, Section 5.3.4.3.^{viii} For each entity proposed as the land manager or conservation easement grantee, indicate their status under CDFW's due diligence process (i.e., approved, initiated, or has not yet initiated due diligence review). The sponsor and property owner are not subject to CDFW's due diligence review unless they are also designated as the land manager or conservation easement grantee as allowed. Please see CDFW's Due Diligence Process website for more information. Due diligence must be completed prior to MCA establishment.

When describing the endowment holder (if applicable), indicate if they have provided a self-certification letter to CDFW that indicates they meet the requirements of Government Code Section 65968, subdivision (e)(1-5)).^{ix}

- A. Land manager**
- B. Conservation easement grantee (if applicable)**
- C. Endowment holder (if applicable, include status of self-certification letter)**
- D. Any contractors or consultants (if applicable)]**

4.4. Location Information

[Describe the MCA location. Provide separately a KMZ file of the location.] Maps of the general vicinity and of the site are included in Exhibit B which is attached to this

MCA and incorporated herein by this reference. Photographs are included in Exhibit C, which is attached to this MCA and incorporated herein by this reference. **[See the Guidelines, Section 5.3.4.4.]^x**

4.5. Service Area

[Describe the proposed MCA Site service area and an ecologically based justification for how the service area was determined; see Guidelines, Section 5.3.4.5.]^{xi}

A map of the service area is included in Exhibit D, which is attached to this MCA and incorporated herein by this reference.

[Provide separately a KMZ file of the service area. If an MCA and established bank(s) have service areas that overlap, describe the following: the MCA must identify the established bank(s) approved by CDFW that have similar credit types. The MCA shall explain how available mitigation credits at those established banks are similar or different, and under which circumstances an entity may choose to purchase existing bank credits over MCA credits. If those available mitigation credits from the established banks will not be purchased or used, the MCA shall outline when or why they will not be purchased or used.]

5. MCA Site Declarations and Review

5.1. Land Use Consistency Declaration

The MCA site **[Insert one of the following: is/is not]** currently being used for temporary mitigation, **[Insert one of the following: is/is not]** designated or dedicated for park or open space use, and **[Insert one of the following: is/is not]** designated for purposes that may be inconsistent with habitat preservation.^{xii} **[See the Guidelines, Section 5.3.5.1][If an MCA site is located within the boundary of an existing Natural Community Conservation Plan, include the following statement:** The creation of MCA credits has been approved in writing by the implementing entity of the existing Natural Community Conservation Plan within which the MCA is located. This written approval is attached as Exhibit E and incorporated herein by this reference.]

5.2. Public Funding

No public funding or grants were received for planning, acquisition, restoration, or other purposes related to the MCA that conflict with the creation of this MCA.

[Describe any public funding received for planning, acquisition, restoration, or other purposes related to the MCA, as indicated in the Guidelines, Section 5.3.5.2.]^{xiii}

5.3. MCA Site Inspection by CDFW

[See Guidelines, Section 5.3.5.3] Representatives of CDFW have inspected the MCA site property and have evaluated the MCA Sponsor's proposed development. With proper notice, the MCA Sponsor and Land Manager shall allow representatives of

CDFW to inspect the MCA site to evaluate the actions being implemented for credits as described in Section 3: Purpose of the MCA, throughout the life of the MCA, and during long-term management to ensure the habitat is maintained in perpetuity.

5.4. Tribal Resources

[See Guidelines, Section 5.3.5.4] [A Tribal Resources Summary that describes the results of the cultural resources records search conducted for each MCA site is attached as Exhibit F,^{xiv} and incorporated herein by this reference.] **[If the MCA sponsor chooses to conduct field surveys or collects additional information regarding cultural resources on site, any information that is available for the public, should be included in the Tribal Resources Summary exhibit.]**

5.5. Approvals

[See Guidelines, Section 5.3.5.5] **[List all permits, authorizations, and other approvals necessary or appropriate to survey, develop, construct, operate, or maintain the MCA, including the name and contact of each agency requiring the permit, permit numbers or other preliminary identifiers, agency contact and their status at the time the draft MCA package is submitted]** Once obtained, copies of all permits, authorizations, and other approvals shall be provided to CDFW.

5.6. Compliance with the California Environmental Quality Act

[See Guidelines, Section 5.3.5.6] CDFW's approval of this MCA is a discretionary act subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this MCA because of prior environmental review of the Project by the lead agency, **[name of Lead Agency]**. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the **[Name of Mitigated Negative Declaration and Initial Study/Name of EIR, (SCH No.: 0000000000)]** dated **[date of Mitigated Negative Declaration/EIR]** that the **[name of Lead Agency]** **[Insert one of the following: adopted (for an MND)/certified (for an EIR)]** for **[name of Project]** on **[insert date adopted/certified]**. At the time the lead agency **[Insert one of the following: adopted/certified]** the **[Insert one of the following: Mitigated Negative Declaration/EIR]** and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This MCA, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's **[Insert one of the following: Mitigated Negative Declaration/EIR]** for the Project and the environmental effects related to approval of this MCA (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that approval of this MCA will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the

potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the approval of this MCA, will avoid, or reduce, to below a level of significance, any such potential effects. CDFW consequently finds that approval of this MCA will not result in any significant, adverse impacts on the environment.

6. MCA Site Development, Management, and Operations

6.1. Natural Resources Evaluation

[See Guidelines, Section 5.3.6.1] A current natural resources evaluation is attached as Exhibit G,^{xv} and incorporated herein by this reference for each MCA site. The natural resources evaluation outlines the requirements included in the guidelines.

6.2. Development Plan

[See Guidelines, Section 5.3.6.2] **[If a development plan is needed, include:** A Development Plan is attached as Exhibit H, and incorporated herein by this reference.] **[If a development plan is not needed, include:** This MCA does not propose restoration or other development of the MCA site; therefore, a development plan is not included.]^{xvi}

6.3. Interim Management and Monitoring

[See Guidelines, Section 5.3.6.3] An Interim Management and Monitoring Plan is attached as Exhibit I and incorporated herein by this reference. The MCA sponsor shall be responsible for conducting management, monitoring, and maintenance activities according to the Interim Management and Monitoring Plan until the end of the interim management period.^{xvii}

6.4. Long-term Management and Monitoring

[See Guidelines, Section 5.3.6.4] At the end of the interim management period, the property owner shall be obligated to manage, monitor, and maintain the MCA site in perpetuity, or until the end of the durability agreement term (depending on which real estate instrument is prepared for the MCA), to preserve its habitat and conservation values in accordance with this MCA, the Conservation Easement, and the Long-term Management and Monitoring Plan which is attached as Exhibit J and incorporated herein by this reference. Such activities shall be funded with funds disbursed from the endowment fund according to Section 9.2.1. During the long-term management period, the property owner shall be responsible for submitting annual reports to CDFW, in accordance with Section 11.^{xviii}

6.5. Remedial Action Plan

[See Guidelines, Section 5.3.6.5]

- A. Prior to MCA closure, if any Party discovers any failure to achieve the performance standards or any injury or adverse impact to the MCA site as preserved, restored, or enhanced, the Party making the discovery shall notify the other Parties within five (5) business days of such discovery. After the Parties are notified CDFW shall follow the enforcement provisions described under Section 13.1. Unless CDFW determines that such damage is the result of extraordinary circumstances as described under Section 13.2, CDFW shall require the MCA sponsor to develop and implement a remedial action plan to correct such condition, as described below. The annual report required under Section 11.2 shall identify and describe any remedial action proposed, approved, or performed and, if the remedial action has been completed, evaluate its effectiveness.
- B. After MCA closure, if any Party discovers any injury or adverse impact to the MCA site as preserved, restored, or enhanced, the Party making the discovery shall notify the other Parties within five (5) business days of such discovery. After the Parties are notified CDFW shall follow the enforcement provisions described under Section 13.1. Unless CDFW determines that such damage is the result of extraordinary circumstances as described under Section 13.2, CDFW shall require the Property Owner to develop and implement a remedial action plan to correct such condition, as described below. The annual report required under Section 11.2 shall identify and describe any remedial action proposed, approved, or performed and, if the remedial action has been completed, evaluate its effectiveness.
- C. Within 30 calendar days of the date of written notice from CDFW, or earlier if CDFW declares that emergency action is necessary, the MCA sponsor shall develop a remedial action plan and submit it to CDFW for written approval. The remedial action plan must identify and describe proposed actions to achieve the performance standards or remedy injury or adverse impact to the MCA site and set forth a schedule within which the MCA sponsor will implement those actions. The MCA sponsor shall, at MCA sponsor's cost, implement the necessary and appropriate remedial action in accordance with the remedial action plan approved by CDFW.
- D. If (a) the MCA sponsor fails to develop a remedial action plan and submit it to CDFW or to implement remedial action identified by CDFW, in accordance with this section, or (b) a remedial action plan is agreed upon and implemented, but the conditions do not satisfy the plan's objective and measurable performance standards by the dates specified in the plan, then CDFW shall find the MCA sponsor in default pursuant to Section 13.1 and take action accordingly.
- E. If CDFW determines there is damage to the MCA site as a result of extraordinary circumstances, the provisions of Section 13.2 shall apply.

6.6. MCA Site Closure

[See Guidelines, Section 5.3.6.6] Procedures for closing an MCA site are as follows:^{xix}

- A. Upon MCA closure, no further credit sales or returns shall occur.
- B. MCA closure shall be deemed effective when CDFW provides written confirmation that all of the following have occurred:
 - i. All performance-based milestones and performance standards have been met and all remedial action required under Section 6.5 have been completed as evidenced by:
 - a. Submission of all required annual reports in accordance with Section 11.
 - b. The completion of all remedial action, if any, in accordance with the applicable remedial action plan(s).
 - c. An on-site inspection by CDFW.
 - ii. Either: (1) the last authorized credit has been sold; or (2) the MCA sponsor requests MCA closure by written notice to CDFW and CDFW provides written approval of the closure.
 - iii. All financial responsibilities of the MCA sponsor have been met, including full funding of the endowment amount for no less than three years, if applicable, and full payment of the CDFW implementation fee.

7. MCA Site Evaluation

7.1. Phase I Environmental Site Assessment

[See Guidelines, Section 5.3.7.1] A Phase I Environmental Site Assessment dated no more than six months prior to submittal is attached as Exhibit K and incorporated herein by this reference.

7.2. Legal Description and Plat Map

[See Guidelines, Section 5.3.7.2] Legal description, and plat maps are attached as Exhibit L, and incorporated herein by this reference.

7.3. Property Assessment and Warranty

[See Guidelines, Section 5.3.7.3] A property assessment and warranty, including a Preliminary Title Report dated no more than one year prior to submittal and a Boundary Improvements and Encumbrances (BIE) Map, is attached as Exhibit M, and incorporated herein by this reference.

7.4. Real Estate Instrument

[See Guidelines, Section 5.3.7.4] **[Insert one of the following:** template Conservation Easement for a conservation action or another real estate instrument that has been approved by CDFW for a habitat conservation action**]** *is attached***]** as Exhibit N,^{xx} and incorporated herein by this reference.

[If the MCA site includes habitat enhancement actions that will be protected by a real estate instrument other than a conservation easement (excluding deed restrictions and restrictive covenants), explain how that instrument will function and how it will adequately protect the habitat enhancement actions and ensures the long-term durability of those actions.]

7.5. Title Insurance

[See Guidelines, Section 5.3.7.5] [If it is determined that title insurance is required, include the following: Proof of title insurance shall be provided upon recordation of the Conservation Easement and prior to MCA establishment, and is attached as Exhibit O, and incorporated herein by this reference.] **[If it is determined that title insurance is NOT required, include the following:** Title insurance is not required, because ***state reason that title insurance is not needed.***]

8. MCA Establishment

[See Guidelines, Section 5.3.8] The MCA will be established, and the credit sale or use may begin only when CDFW confirms that all of the following actions have occurred:

- A. The MCA has been approved by all of the Parties;
- B. One of the following real estate instruments is in place, as applicable:
 1. A Conservation Easement that has been (1) executed by the Grantor; (2) accepted by a Grantee that has been approved by CDFW; and (3) recorded in the Official Records of the county in which the MCA is located;
 2. A long-term durability agreement approved by CDFW that has been properly processed;
- C. The MCA sponsor has complied with its obligation to furnish all necessary financial securities in accordance with Section 9;
- D. Any subordination agreement(s), required to prioritize the Conservation Easement over other encumbrances, has been executed and recorded;
- E. Title Insurance has been provided to CDFW upon recordation of the required real estate instrument according to Section 7.4, if required;
- F. Sufficient long-term management funding is in place to cover any credits released. For endowments, the funding shall be in accordance with Section 9.2.1 below;
- G. All reporting requirements necessary since MCA approval have been met according to Section 11 below.

9. Financial Securities and Funding

9.1. Securities

[See Guidelines, Section 5.3.9.1^{xxi}] [List all types of securities that will be needed (e.g., construction, performance, interim management, and compliance), describe which securities are not needed and why, describe what period each type of security will cover (e.g., construction phase, interim management phase), and the tasks or performance standards to be completed within each period. State whether they will be in the form of an irrevocable standby letter of credit with CDFW as the beneficiary, (to be held by CDFW) or cash, and their estimated values.] A Securities Analyses is attached as Exhibit P and is incorporated herein by this reference. The MCA sponsor is responsible for providing security for the performance and completion of MCA site construction, management, monitoring, and remedial action in accordance with this MCA, as set forth in this Section.

The amount of each security shall be reviewed and approved by CDFW, and it shall be an irrevocable standby letter of credit or cash. The MCA sponsor shall ensure the security shall remain available in the full amount until released by CDFW.

9.1.1. Construction Securities

[If credits are to be released prior to all phases of construction to be completed include the following:

The MCA is releasing credits prior to completing all construction described in the Development Plan.

The MCA sponsor shall furnish a Construction Security based on the amount specified in **Exhibit P** to the remaining Covered Habitat to be constructed in accordance with the Development Plan specified in Exhibit H.

[If credits will not be released prior to all phases of construction to be completed include the following:

The MCA sponsor is not seeking credits to be release prior to construction, and therefore, shall furnish a Construction Security based on the amount specified. And therefore, **Exhibit P** is not applicable.]

For CDFW to release the Construction Security or to determine that construction is completed, as-built drawings of the MCA site, with accurate maps of the constructed habitats, must be submitted to CDFW no later than 90 calendar days following the completion of all construction activities. The as-built drawings shall consist of full-size construction plans, with as-built conditions clearly shown. The as-built drawings and any attachments must describe in detail any deviation from the Development Plan.

9.1.2. Performance Security

[If credits are to be released prior to meeting all performance standards described in the Development Plan include the following:

The MCA is releasing credits prior to meeting all performance standards described in the Development Plan.

Prior to MCA establishment, the MCA sponsor shall furnish the Performance Security. The cost is based on a measure of expected costs associated with project management, monitoring, and reporting from the time construction is completed to completing all performance-based milestones and/or performance standards. This cost shall be no less than 10% of the construction cost and account for any foreseeable remedial action, or when there is no construction, be based on another amount approved by CDFW. This security guarantees the MCA sponsor's obligations to meet performance standards. After CDFW determines the MCA sponsor has satisfied all performance standards, CDFW shall release the Performance Security.

If credits will not be released prior to meeting all performance standards described in the Development Plan include the following:

The MCA is not releasing credits prior to meeting all performance standards described in the Development Plan, and therefore, will not furnish a Performance Security.]

9.1.3. Interim Management Security

[If credits are to be released prior to completing the interim management period, including all performance standards described in the Development Plan and prior to fully funding the endowment for three years include the following:

The MCA is releasing credits prior the end of the interim management period.

Prior to MCA Establishment, the MCA sponsor shall furnish the Interim Management Security in the amount specified in Exhibit P. The amount of the Interim Management Security shall be equal to the estimated cost to implement three years of interim management (as described in the Interim Management and Monitoring Plan), as set forth in Exhibit I. This security guarantees the MCA sponsor's obligations under this MCA while the endowment is maturing (approximately three years). Once the interim management period is completed and accepted by CDFW, the Interim Management Security will be released back to the MCA sponsor.

9.1.4. Compliance Security

Prior to MCA establishment, the MCA sponsor shall furnish the Compliance Security in the amount not less than 10% of the Construction Security and account for any foreseeable remedial action, or another amount approved by CDFW when no construction occurs. This security guarantees the MCA sponsor's obligations under this MCA through MCA closure. This security covers any remedial actions needed until MCA closure. Upon MCA closure, the Compliance Security will be released back to the MCA sponsor.

9.2. Long-term Management Funding

[See Guidelines, Sections 5.3.9.2 and 5.2.4(d)]^{xxii} [Explain how the implementation of the conservation action(s) or habitat enhancement action(s) proposed in the MCA will be adequately funded and how long-term protection and management of each site will be funded. If the MCA sponsor is a state agency, they may utilize other comparable funding mechanism(s) approved by CDFW in accordance with an adopted statewide policy regarding funding for long-term management and operations of mitigation sites. Describe the funding mechanism selected and its estimated value]. An Endowment Fund Analysis is attached as Exhibit Q and incorporated herein by this reference.

9.2.1. Endowment Fund

- A. The endowment fund shall be an amount sufficient to fully provide for the financial requirements of the long-term management of the MCA in accordance with the Long-term Management and Monitoring Plan (Exhibit J) and the endowment fund analysis (Exhibit Q) and schedule (Exhibit R). The endowment fund shall be held in trust for the benefit of the resources to be protected and shall be held, managed, invested, and disbursed solely for, permanently restricted to, the stewardship and management of the MCA site in accordance with the MCA. The MCA sponsor shall fully fund the endowment amount through endowment deposits according to the Endowment Fund schedule attached as Exhibit R, and incorporated herein by this reference **[See Guidelines, Section 5.3.9.2]**. If the MCA sponsor intends to release a portion of the MCA credits prior to fully funding the endowment, the same or greater portion of the endowment's principle must be funded. The endowment fund shall be held by the endowment holder.
- B. Each deposit for endowment funding will be adjusted for inflation until the Endowment is fully funded. The MCA sponsor shall calculate inflation based on changes in the Annual Consumer Price Index (CPI) for California, for All Urban Consumers, published by the California Department of Industrial Relations, Division of Labor Statistics and Research, and shall adjust the endowment amount proportionally with the April 1st inflation rate. The MCA sponsor shall measure inflation by calculating the percent change between the CPI value published for the year the MCA was established and the CPI value published for the adjustment year. The MCA sponsor shall multiply the inflation rate by the endowment amount in Exhibit Q. The product will be the increase in the endowment amount. If deflation occurs (CPI is less than the previous year), then the MCA sponsor shall not adjust the endowment amount until the Annual CPI exceeds the value from the most recent inflation year. This information shall be included in the annual reporting.
- C. The MCA sponsor shall provide to CDFW confirmation of each endowment deposit within 30 calendar days of such deposit.

- D. The endowment deposits that the endowment holder receives are to be held in the endowment fund.

9.2.2. Endowment Fund Management:

- A. The endowment fund should be governed by an investment policy statement that is designed to generate investment returns, over long periods of time, sufficient to keep pace with inflation and pay the costs of long-term management and monitoring, net of any financial investment and administrative fees.
- B. Disbursements shall not be made from the endowment fund until three years after the date on which the endowment amount is fully funded.
- C. The Parties anticipate that disbursements from the endowment fund will be made available by the endowment holder to the property owner to fund annual long-term management of the MCA as anticipated in the Long-term Management and Monitoring Plan and estimate of costs.
- D. Notwithstanding Probate Code Sections 18501-18510, the property owner and the endowment holder shall consult with CDFW in the event that either (a) the value of the endowment fund has decreased to levels that may threaten its continued existence as a source of perpetual funding for long-term management and monitoring, whether due to unexpected investment performance or otherwise; or (b) long-term management expenses exceed those estimated in the endowment fund analysis and schedule. Property owner shall submit a proposed temporary revised Long-term Management and Monitoring Plan and endowment fund analysis in writing to CDFW and grantee within 60 calendar days after completion of property owner's consultation with CDFW and grantee. Upon written approval of the temporary revised Long-term Management and Monitoring Plan by CDFW and any required notification to the endowment holder, the property owner shall implement the approved revised management measures and tasks. The original Long-term Management and Monitoring Plan shall be restored in full force and effect upon expiration of the temporary revised Long-term Management and Monitoring Plan or sooner if the circumstances in Subsections (a) or (b) above cease to exist.

9.2.3. Financial Records and Auditing

- A. MCA sponsor and property owner are required to maintain complete and accurate financial records relating to the operation of the MCA, using generally accepted accounting principles (GAAP), developed by the Federal Accounting Standards Advisory Board. At the request of CDFW, no more frequently than annually, the MCA sponsor and property owner shall each have its financial records relating to the operation of the MCA audited by an independent licensed Certified Public Accountant and shall submit the auditor's report to CDFW upon completion.

B. CDFW shall also have the right to review and copy any records and supporting documentation pertaining to the performance of this MCA. MCA sponsor and property owner agree to maintain such records for possible audit for a minimum of three years after MCA closure, or three years after the date of performance, whichever is later. MCA sponsor and property owner agree to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employee or representative who might reasonably have information related to such records. Further, MCA sponsor and property owner agree to include a similar right of State and federal auditors to audit records and interview employees and representatives in any contract related to the performance of this MCA.

10. Credit Type, Release, Sale and Use, and Reporting

10.1. Credit Type and Quantity

[See Guidelines, Section 5.3.10.1.]^{xxiii} [Fully describe the proposed type(s) of mitigation credits, the quantity of credits created including unit of measurement for each credit and reference the credit evaluation and credit table.] The credit evaluation and credit table are attached as Exhibit S and Exhibit T, respectively and incorporated herein by these references.

10.2. Credit Release Schedule

[See Guidelines, Section 5.3.10.2.] A Credit Release Schedule is attached as Exhibit U and incorporated herein by this reference. It includes a credit release schedule for each credit type included in Section 10.1 (see Exhibit T). **[Describe the number of releases, the standards or triggers that must be met for each release, including when and how many are intended to be released, and which performance standards must be met prior to each credit release.]^{xxiv}**

10.3. Credit Sale and Use

[See Guidelines, Section 5.3.10.3.] The terms of sale and use that apply to this MCA are attached as Exhibit V and incorporated herein by this reference.^{xxv}

[If the MCA service area overlaps with any CDFW-approved bank service areas, the Credit Receipt shall include a section for each entity purchasing credits to outline their reasoning for not purchasing from an established bank with the same credits available.]^{xxvi}

[The MCA must include terms of sale and use as indicated in the Guidelines, Section 5.3.10.3.]

A. The Credit sale and use may begin only after CDFW has approved the release of credits. MCA sponsor shall have the exclusive right to determine the price for any and all MCA credits it offers for sale.

- B. In no case shall the number of credits of any particular type sold or used exceed the total number of credits of that type which have been released for sale or use, as evidenced by written approval by CDFW.
- C. Approval of a credit as a mechanism for satisfying a mitigation requirement is determined on a case-by-case basis by the regulatory agency that imposed the mitigation requirement to ensure the use is appropriate to compensate for the impacts of the specific project to which the credits are proposed to be applied. Mitigation or compensation requirements for individual project impacts may or may not align with MCA credits. The purchaser or user of the credits should seek written approval from the applicable regulatory agency prior to purchase.
- D. Once a credit is sold by the MCA sponsor, that credit may not be sold or transferred to another entity. Sold credits that have not been used may only be returned back to the MCA sponsor at the MCA sponsor's discretion. In order to add the unused and returned credits back to the ledger the following conditions must be met:
 - i. The MCA is open;
 - ii. The original purchaser of the unused credits obtains written documentation of MCA sponsor's conditional approval to return credits and provides a copy to CDFW for CDFW review and written approval;
 - iii. MCA sponsor enters the returned credits in the ledger.
 - iv. Upon the return of the credits specified above, the MCA sponsor shall submit to the Parties listed in the notices section of the MCA, and approving/regulatory agency(ies)/authorities associated with those credits copies of the following:
 - a. Credit Receipt.
 - b. Payment receipt.
 - c. An updated ledger.

10.4. Credit Reporting

[See Guidelines, Section 5.3.10.4.]

10.4.1. Credit Receipt

A template Credit Receipt is attached as Exhibit W and incorporated herein by this reference.

10.4.2. Credit Ledger

[Explain how the proposed mitigation credits will be accounted for, including the specific methods proposed for reporting and maintaining a record of credit]

creation, release, sale, or use.] A template credit ledger is attached as Exhibit X and incorporated herein by this reference.]^{xxvii}

11. Reporting

11.1. Annual Inflation Adjustments to Endowment Inflation Report

[See Guidelines, Section 5.3.11.1.] By April 1st of each year following the first endowment deposit, until the endowment amount is fully funded, the MCA sponsor shall provide an Endowment Inflation Report to CDFW and the endowment holder, in both Word and PDF electronic format that includes the following:

- A. The adjusted endowment amount determined in accordance with Exhibit Q;
- B. The resulting adjusted endowment deposit amounts.

If the MCA sponsor fails to submit complete reports on time, the MCA sponsor is in default per Section 13.1.

11.2. Annual Report

[See Guidelines, Section 5.3.11.2.] The MCA sponsor or property owner, as specified below, shall submit an annual report to CDFW and the RCIS implementing entity, editable electronic format, on or before January 31st of each year following the approval of the MCA. If MCA sponsor or property owner, as applicable, fails to submit complete reports on time, the MCA sponsor or property owner, as applicable, is in default pursuant to Section 13.1. Each annual report shall cover the period from January 1 through December 31 of the current year (the "Reporting Period"). Prior to MCA closure, the MCA sponsor shall be responsible for annual reporting of the MCA development and interim management tasks as described in the Interim Management and Monitoring Plan (Exhibit I). After MCA closure, the property owner shall be responsible for annual reporting of the MCA long-term management tasks described in the Long-term Management and Monitoring Plan (Exhibit J).

A. Each annual report shall include:

- i. An updated credit ledger (Exhibit X) showing all credits sold and used since the first credit release and an accounting of remaining credits.
 - ii. An itemized account of all applicable activities pertaining to the Construction Security, Performance Security, Interim Management Security, and the Endowment Fund.
 - iii. A statement of the amount/balance of the Endowment Fund at the beginning and end of the Annual Reporting Period.
- B. During MCA Development – The report shall include data, documentation, and discussion of the MCA's progress toward meeting performance standards described in this MCA and its exhibits. The annual report shall describe any

deficiencies in attaining and maintaining performance standards and any remedial action proposed, approved, or performed. If remedial action has been completed, the annual report shall also evaluate the effectiveness of that action.

- C. During Interim management and long-term management – The Interim and Long-term Management and Monitoring Plans contain reporting requirements that are separate from, and in addition to, the requirements listed above for the annual report.

During the interim management period, the annual report shall also contain an itemized account of the management tasks in accordance with the Interim Management and Monitoring Plan and any remedial actions conducted during the Reporting Period. During the long-term management period, the annual report shall contain an itemized account of the management tasks in accordance with the Long-term Management and Monitoring Plan and any remedial actions conducted during the Reporting Period. Each annual report shall also include the following:

- i. The time period covered, i.e., the dates “from” and “to.”
- ii. A description of each management task conducted, the dollar amount expended, and time required.
- iii. The total dollar amount expended for management tasks conducted during the Reporting Period.
- iv. A description of the management and maintenance activities proposed for the next reporting year.
- v. A description of the overall condition of the MCA site(s), including photos documenting the status of the MCA site(s) during the Reporting Period and a map documenting the location of the photo points.

11.3. Credit Sale and Use Reporting

[See Guidelines, Section 5.3.11.3.] Upon every transaction of credits, the MCA sponsor shall submit to CDFW, in an editable electronic format, the following:

- A. A copy of the executed credit receipt.
- B. An updated credit sale and use ledger in the form provided in Exhibit U.

12. Responsibilities

[See Guidelines, Section 5.3.12.]

12.1. Responsibilities of the MCA Sponsor and Property Owner

- A. Without limiting any of its other obligations, including without limitation, those described in the Conservation Easement, the MCA sponsor and property owner

each hereby agrees and covenants the following responsibilities during the time the MCA is in operation:

- i. The MCA sponsor and property owner shall, prior to the execution of the Conservation Easement included as Exhibit N, provide CDFW with satisfactory evidence that the proposed conservation easement grantee is authorized to hold conservation easements pursuant to California Civil Code § 815.3 and Government Code §§ 65966-65967, has a primary purpose of long-term land stewardship for conservation purposes consistent with the purpose of the MCA, and has agreed to be the conservation easement grantee.
- ii. The MCA sponsor shall be responsible for all activities and costs associated with the establishment and operation of the MCA, including but not limited to construction, planting, remedial action, documentation, maintenance, management, monitoring, and reporting, until completion of the interim management period. Some responsibilities and costs, including but not limited to remedial action and actions specified in subparagraphs iii and vii, below, will extend past the Interim Management Period until Bank closure.
- iii. The MCA sponsor shall perform the actions described in this MCA and its exhibits to support all credits that project proponents/action agencies secure. The MCA sponsor shall provide CDFW with the credit receipt (Exhibit W) for all credits secured by project proponents/action agencies that confirms that the MCA sponsor will continue to perform the aforementioned actions.
- iv. The MCA sponsor or property owner shall not discharge or release on, to or from the MCA site, or permit others to discharge or release on, to or from the MCA site, any material, waste, or substance designated as hazardous or toxic or as a pollutant or contaminant under any Federal, state, or local environmental law or regulation (each a hazardous substance).
- v. The property owner shall not create or suffer any lien or encumbrance upon the property included in the MCA other than as set forth in the property assessment and warranty approved by CDFW. The property owner shall not execute, renew, or extend any lien, lease, license, or similar recorded or unrecorded right or interest on any property included in the MCA without the prior written consent of CDFW and the grantee, if a conservation easement has been granted.
- vi. The MCA sponsor or property owner shall not construct or install any structure or improvement on, or engage in any activity or use of, the MCA site, including mineral exploration or development, excavation, draining, dredging, or other alteration of the MCA site that is prohibited by, or not consistent and in accordance with this MCA and its exhibits.
- vii. The MCA sponsor shall ensure that the MCA is managed and maintained

in accordance with the Development and Interim Management and Monitoring Plan, this MCA and its exhibits prior to MCA closure.

- viii. The property owner shall allow, or otherwise provide for, access to the MCA site by MCA sponsor, CDFW, CE grantee or any third-party beneficiary to the CE, as described in the conservation easement.
 - ix. The property owner shall grant to MCA sponsor all rights and authority necessary, and shall not limit the MCA sponsor, in performing its responsibilities and obligations pertaining to the MCA site in accordance with this MCA and its exhibits.
 - x. The property owner shall ensure that the MCA is managed and maintained in accordance with the Long-term Management and Monitoring Plan, this MCA, and its exhibits.
- B. Reasonably foreseeable technical problems, or unanticipated or increased costs or expenses associated with the implementation of actions called for by this MCA or changed financial or business circumstances in and of themselves shall not serve as the basis for modifications of this MCA or extensions for the performance of the requirements of this MCA.
- C. An extension of one compliance date based upon or related to a single incident shall not extend any subsequent compliance dates.

12.2. Responsibilities of CDFW

- A. CDFW will make a good faith effort to review the annual reports and remedial action plans within sixty calendar days from the date of receipt of complete submittal. If CDFW is unable to complete its review within the time specified in this section, this fact will be reflected in any schedule established for performance of remedial action and any evaluation of timely performance of remedial action by MCA sponsor.
- B. CDFW shall conduct compliance inspections for any purpose(s) it determines as necessary to assess compliance with this MCA.

13. Other Provisions

[See Guidelines, Section 5.3.13.]

13.1. Enforcement Provisions^{xxviii}

- A. If CDFW determines that the MCA sponsor has defaulted in the performance of an obligation under the terms of this MCA, CDFW shall send a written notice (Notice of Default) to the MCA sponsor describing the violation and requesting to meet and confer to determine the appropriate action(s) to take to cure the default. CDFW and the MCA sponsor shall meet and confer within thirty days of the MCA sponsor's receipt of such Notice of Default.

- B. If CDFW and the MCA sponsor fail to resolve the issue through the meet-and-confer process, CDFW shall send a written notice (Notice of Violation) to the MCA sponsor describing the violation and instructing the MCA sponsor to cure the violation within thirty days. If the cure reasonably requires more than thirty days, the MCA sponsor shall so inform CDFW in writing and shall indicate how many days it will take to cure the violation. CDFW may, in its reasonable discretion, determine in writing whether to extend the cure period beyond the initial thirty days.
- C. If the MCA sponsor fails to cure the violation within thirty days after receipt of the Notice of Violation, or if CDFW grants a longer cure period and the MCA sponsor fails to begin the cure within thirty days of receipt of the Notice of Violation and to continue diligently to pursue and complete the cure in good faith, CDFW may, in its sole discretion, suspend credit sale and/or use, reduce the amount of available credits, utilize financial securities, or suspend or terminate this MCA. Any suspension or revocation of this MCA pursuant to this section shall be made in writing and shall be signed by the Director, Chief Deputy Director, or Deputy Director for Ecosystem Conservation of CDFW.
- D. In the event of suspension or termination of this MCA pursuant to this section the MCA sponsor shall remain liable for the implementation, maintenance, and management of any conserved lands or habitat enhancements for which mitigation credits have been released.
- E. If CDFW determines that the MCA is operating at a credit deficit (i.e., that credit sales made exceed the credits authorized for release, as adjusted in accordance with this MCA), CDFW shall send a Notice of Default. Upon receipt of notification, MCA sponsor shall cease credit sales and credit use immediately. It is the MCA sponsor's responsibility to meet with CDFW to determine how to resolve the deficit or if credits must be sold back to the MCA sponsor. All credit sales or use can only resume with CDFW review and notice that the default has been resolved.
- F. If the MCA sponsor fails to submit or complete required annual reports in a timely manner, the MCA sponsor is in default resulting in an automatic suspension of credit sale and use effective 30 days after the report is due. The suspension will be lifted within 10 calendar days after CDFW receives a complete annual report. If the Property Owner fails to submit complete required annual reports in a timely manner, the Property Owner is in default. CDFW will notify the Property Owner of the date by which the annual report must be made complete.

13.2. Extraordinary Circumstances

In the rare event (an extraordinary circumstance) in which the MCA can no longer serve its intended purpose as compensatory mitigation, in whole or in part, for the specific resources for which it was established, CDFW may determine that the MCA sponsor is relieved of some or all of its obligations under this MCA if the failure or

delay in the performance of its obligations is caused by, directly or indirectly, forces beyond its control, including, accidents, acts of war or terrorism, civil or military disturbances, natural catastrophes or acts of God; it is understood that the MCA sponsor shall use reasonable efforts which are consistent with accepted practices to resume performance as soon as practicable under the circumstances. CDFW will determine whether extraordinary circumstances exist that will excuse performance. This may result in CDFW limiting or suspending the creation of undeveloped credits and/or the sale any previously released credits.

13.3. Controlling Law

This MCA shall be governed by the provisions of California Fish and Game Code Sections 1850-1858, as amended, and CDFW's Regional Conservation Investment Strategies Program Guidelines (Guidelines), as amended. In the event of any conflict, Sections 1850-1861 govern the interpretation of the Guidelines and the MCA, and the terms of the Guidelines also govern the interpretation of the MCA.

13.4. No Limitation of Authority

This MCA is not intended, nor shall it be construed, to limit CDFW's authority to fulfill its statutory or regulatory responsibilities or to otherwise limit the powers afforded to either Party by applicable law.

13.5. Modification and Amendment

This MCA, including its exhibits, may be amended or modified only with the written approval of CDFW and the MCA sponsor or as required by law.

13.6. Termination of Agreement

The MCA sponsor may terminate this MCA upon ninety (90) days written notice to CDFW; provided, however, that the obligation to ensure the perpetual protection and management of conservation actions and the long-term durability of habitat enhancement actions resulting in the creation of mitigation credits shall survive termination of this MCA. CDFW may terminate this MCA pursuant to Section 13.1. Once terminated, any unsold credits are void. The MCA sponsor must give the same ninety (90) day written notice to anyone who has purchased unused credits. The purchaser shall either use the credits immediately or they may return the credits to the MCA sponsor.

13.7. Entire Agreement

This MCA, including its exhibits, constitutes the complete, final, and exclusive terms and conditions governing the establishment of the MCA and the creation, sale and use of mitigation credits and supersedes all prior and contemporaneous discussions, negotiations, understandings, or agreements of the Parties.

13.8. Successors and Assigns

This MCA, and each of its covenants and conditions, will be binding on and will inure to the benefit of the Parties and their respective successors and assigns, subject to the limitations on transfer set forth in this MCA. The MCA sponsor may assign or otherwise transfer the MCA only with the prior amendment approval by CDFW. Any assignment or transfer made without the prior written approval of CDFW may, at the sole discretion of CDFW, result in the termination of this MCA and the invalidation of any credits created or sold after the date of the assignment or transfer.

13.9. Partial Invalidity

If a court of competent jurisdiction holds any term or provision of this MCA to be invalid or unenforceable, in whole or in part, for any reason, the validity and enforceability of the remaining terms and provisions, or portions of them, will not be affected unless an essential purpose of this MCA would be defeated by loss of the invalid or unenforceable provision.

13.10. Notices

Any notice, demand, approval, request, or other communication permitted or required by this MCA will be in writing first via electronic mail with read receipt and if necessary, via certified U.S. mail, postage prepaid. Addresses for purposes of giving notice are set forth below. Either Party may change its notice address by giving notice of change of address to the other Party in the manner specified in this section at least thirty (30) days prior.

To CDFW:

Landscape Conservation Planning Program Manager
Habitat Conservation Planning Branch
California Department of Fish and Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
rcis@wildlife.ca.gov

To MCA sponsor:

[Insert name, mailing address, and email address for MCA sponsor]

To Property Owner:

[Insert name, mailing address, and email address for property owner]

13.11. Counterparts

This MCA may be executed in multiple counterparts, each of which will be deemed an original and all of which together will constitute a single executed agreement.

13.12. No Third-party Beneficiaries

Except as expressly stated herein, this MCA is not intended to nor shall it be construed to create any third-party beneficiaries. The duties, obligations, and responsibilities of the Parties to this MCA with respect to third parties will remain as otherwise provided by law.

13.13. MCA Program Fees

Approval and implementation of this MCA by CDFW is subject to the payment of MCA fees in accordance with the fee schedule included in CDFW's Regional Conservation Investment Strategies Program Guidelines.

13.14. Liability

All terms and conditions of this MCA shall be binding upon both the MCA sponsor and the property owner. Notwithstanding California Civil Code Section 1431 or any other provision of law, the MCA sponsor and the property owner shall be jointly and severally liable for performance of all terms, conditions, and obligations of this MCA and shall be jointly and severally liable for any unauthorized take or other violations of this MCA, whether committed by the MCA sponsor or the property owner, or any person acting on behalf of one or more MCA sponsor or the property owner, including their officers, employees, representatives, agents or contractors and subcontractors. Any failure by one or more of the MCA sponsors or the property owner to comply with any term, condition, or obligation herein shall be deemed a failure to comply by both the MCA sponsor and the property owner.

This Mitigation Credit Agreement becomes effective on the date of the last signature below (Approval Date).

**STATE OF CALIFORNIA
DEPARTMENT OF FISH AND WILDLIFE**

[Name]

[Position]

[Date]

MCA SPONSOR

[Name]

[Position]

[Date]

MCA PROPERTY OWNER

[Name]

[Position]

[Date]

-
- i Fish & G. Code, § 1856(b)
ii Fish & G. Code, § 1856(f)
iii Fish & G. Code, § 1855(d)
iv Fish & G. Code, § 1798, subdivision (b)(2)(A)
v Fish & G. Code, § 1856, subdivision (a)
vi Fish & G. Code, § 1856, subdivision (d)
vii Fish & G. Code, §§ 1856, subdivision (g)(1) and 1798, subdivision (b)(2)(B)
viii Fish & G. Code, §§ 1856, subdivision (g)(1) and 1798, subdivision (b)(2)(G)
ix Fish & G. Code, § 1856(g)(13)
x Fish & G. Code, §§ 1856, subdivisions (g)(3), (g)(4), (g)(8) and 1798, subdivisions (b)(2)(C), (b)(2)(D), (b)(2)(E)
xi Fish & G. Code, §§ 1798, subdivision (b)(2)(I) and 1798.5, subdivision (a)(2)(D)
xii Fish & G. Code, § 1798, subdivision (b)(2)(M)
xiii Fish & G. Code, § 1798, subdivision (b)(2)(N)
xiv Department of Fish and Wildlife Bulletin: Tribal Communication and Consultation Policy. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=122905&inline>
xv Fish & G. Code, §§ 1856, subdivision (g)(7) and 1798, subdivision (b)(2)(H)
xvi Fish & G. Code, §§ 1856, subdivision (g)(5) and 1798, subdivision (a)(2)(B)
xvii Fish & G. Code, § 1798.5, subdivision (a)(2)(B)
xviii Fish & G. Code, §§ 1856, subdivision (g)(14) and 1798.5, subdivision (a)(2)(B)
xix Fish & G. Code, § 1798.5, subdivision (a)(2)(B)
xx Fish & G. Code, §§ 1856, subdivision (g)(12) and 1798.5, subdivision (a)(2)(C)
xxi Fish & G. Code, § 1798.5, subdivision (a)(2)(G)
xxii Fish & G. Code, §§ 1856, subdivision (g)(13) and 1798.5, subdivision (a)(2)(F)
xxiii Fish & G. Code, § 1856, subdivisions (f) and (g)(9)
xxiv Fish & G. Code, §§ 1856, subdivision (g)(18) and 1798.5, subdivision (a)(2)(E)
xxv Fish & G. Code, § 1856, subdivision (g)(15)
xxvi Fish & G. Code, § 1856, subdivision (g)(6)
xxvii Fish & G. Code, §§ 1856, subdivision (g)(18) and 1798.5, subdivision (a)(2)(E)
xxviii Fish & G. Code, § 1856, subdivision (g)(16)

Appendix B – MCA Framework Checklist

MITIGATION CREDIT AGREEMENT FRAMEWORK CHECKLIST

This framework checklist is part of the Regional Conservation Investment Strategies Program Guidelines (Guidelines) (Fish & Game Code, § 1856(a)) as referenced in Section 5 of the Guidelines. The following checklist includes items that are required of an advanced mitigation Framework to be considered for review and approval by CDFW. Each item indicates the source of the requirement in the Fish & G. Code, § 1850 – 1859; specifically, the framework identified Fish & G. Code, § 1856(c). All references apply to the subsequent nested bullets unless otherwise indicated. The organization of this checklist follows the format used in the MCA Template is found in Appendix A of the RCIS Program Guidelines.

Framework Name:

MCA sponsor:

Date submitted to CDFW:

The following minimum requirements must be met before CDFW starts review:

The appropriate fees have been paid (Fish & G. Code, § 1857).¹

The Framework occurs within the area of an approved RCIS that includes the requirements of Fish & G. Code, § 1856(b).

Identify the RCIS that the Framework occurs in.

- A process and the terms and conditions on which CDFW will base its review and approval of mitigation credits on future sites.
- A description of the conservation actions or habitat enhancement actions that are consistent with, and will measurably advance the conservation objectives of, an approved regional conservation investment strategy, and will be used to create mitigation credits. List the focal species, non-focal species and other conservation elements associated with those actions.
- A prioritization strategy for selecting future sites to implement the conservation actions or habitat enhancement actions described in the Framework.

If the MCA Template is used, template edits are in track changes

Accessibility

Prior to approval, the Framework document must meet the Web accessibility standards of California Government Code 11135 and the U.S. Rehabilitation Act section 508.

MCA Template: check all sections that are included:

Section 1 – Full name of the MCA included (Fish & G. Code, § 1856(g)(17) and §

¹ See the [Regional Conservation Investment Strategies Program Guidelines: Fees](#) for the current fee schedule

1798(b)(2)(A)

Section 2 - Supporting Regional Conservation Investment Strategy (Fish & G. Code, § 1856(a))

- RCIS in which the MCA is located is identified and described
- Identify and describe the conservation and habitat enhancement action(s) that measurably advance the conservation objectives of an approved RCIS that may be used to create mitigation credits, which can be used to compensate for impacts to focal species and other species, habitat, and other natural resources.

Section 3 – The MCA purpose and need are outlined along with any other objectives (Fish & G. Code, § 1856(d)).

Section 4 - MCA Site and Service Area Information

- 4.1** – Property Ownership Description: Owner(s) of each MCA site (Fish & G. Code, § 1856(g)(11) and § 1798(b)(2)(F))
- 4.2** – Contact Information: Contact information for all applicable parties. Include: MCA sponsor, MCA site property owner, MCA site manager, conservation easement grantee or long-term durability agreement entity, endowment holder, and any contractors or consultants (Fish & G. Code, § 1856(g)(1) and Fish & G. Code, § 1798(b)(2)(B)).
 - Exhibit A**- Contact Information
- 4.3** – Qualifications: Qualifications of all applicable parties, including: MCA sponsor, land manager, conservation easement grantee (if applicable), endowment holder (if applicable), and any contractors, or consultants (Fish & G. Code, § 1856(g)(1)). Both the conservation easement grantee and site manager are subject to CDFW's due diligence requirement.²
 - Endowment holder self-certification letter to CDFW that indicates they meet the requirements of Government Code section 65968, subdivision (e)(1-5) (Fish & G. Code, § 1856(g)(13)).
- 4.4** – Location Information: Location information to identify the MCA site(s), including size and address.
 - Exhibit B – General vicinity map and site map, reference maps, including enhancement areas and a 7.5-minute United States Geological Survey map showing the proposed boundaries of the MCA.
 - Identifies public lands and permanently protected lands in the vicinity of the conservation actions or habitat enhancement actions (Fish & G. Code, § 1856(g)(8)).

² Information about the due diligence process is available on [CDFW's Endowments and Mitigation Land Management web page](#).

- KMZ file showing the location of the MCA site(s).
- Exhibit C- Photographs, including color aerial and ground-level photographs that reflect current conditions on the site and surrounding properties (Fish & G. Code, § 1856(g)(3), § 1856(g)(4), and § 1856(g)(17)).
- **4.5** – Service Area: A written description of the service area for each credit type, including an ecological based justification for how each service area was determined, and maps (Fish & G. Code, § 1856(g)(17), § 1798(b)(2)(I) and § 1798.5(a)(2)(D))
- Exhibit D –Service Area Map
 - KMZ file showing the service area for each credit type

Section 5 - MCA Site Declarations and Review

- **5.1** - Land Use Consistency Declaration: Outline that the MCA site has not been, or is not currently being used, as mitigation; is not designated or dedicated for park or open space use; and is not designated for purposes that may be inconsistent with habitat preservation (Fish & G. Code, § 1856(f), § 1856(g)(17) and § 1798(b)(2)(M)).
- **5.1** - Land Use Consistency Declaration (continued): If the MCA is located within the boundary of an existing NCCP, include approval from the NCCP implementing entity (Fish & G. Code, § 1856(k)).
 - Exhibit E – NCCP Approval Letter (if applicable)
- **5.2** - Public Funding: Detailed description of any public funding received (if applicable) Fish & G. Code, § 1856(g)(17) Fish & G. Code, §1798(b)(2)(N)).
- **5.3** - MCA Site Inspection by CDFW
- **5.4** – Tribal Resources
 - Exhibit F – Tribal Resources Summary
- **5.5** – Approvals: List all permits, authorizations, and other approvals needed for the MCA.
 - Once obtained, provide all permits, authorizations, and other approvals shall be provided to CDFW.
- **5.6** - Compliance with the California Environmental Quality Act
 - Submit all CEQA documents related to the MCA prior to MCA approval.
 - Provide the name of the Lead Agency, state clearinghouse number and type of document, and date certified.

Section 6- MCA Site Development, Management, and Operations

- **6.1-** Exhibit G: Natural Resources Evaluation, including documentation of biotic and abiotic baseline conditions, including past, current, and adjacent land uses, vegetation types, species information, topography, hydrology, and soil types (Fish & G. Code, § 1856(g)(7)).
- **6.2** –Development Plan:
 - Exhibit H – Draft Development Plan, if the MCA site development includes ground disturbance (Fish & G. Code § 1856 (g)(5) and §1798(a)(2)(B)).
 - Identify metrics or indicators by which the proposed conservation actions or habitat enhancement actions contribute to achieving the strategy’s conservation goals and objectives that can feasibly be measured with existing technology (Fish & G. Code, § 1856(g)(10)).
- **6.3** - Exhibit I –Interim Management and Monitoring Plan (Fish & G. Code, § 1856(g)(17) and § 1798.5(a)(2)(B)).
- **6.4** - Exhibit J –Long-term Management and Monitoring Plan (Fish & G. Code, § 1856(g)(14), § 1856(g)(17) and § 1798.5(a)(2)(B)).

Section 7– MCA Site Evaluation

- **7.1** – Exhibit K: Phase I Environmental Site Assessment, conducted no more than six months prior to the date the MCA is submitted. Performed in accordance with the American Society of Testing and Materials (ASTM) Standard E1527-05 (Fish & G. Code, § 1856(g)(17) and § 1798.5(a)(2)(H)).
- **7.2** – Exhibit L: Legal Description and Plat Map
- **7.3** – Exhibit M: Property Assessment and Warranty.³
 - Preliminary Title Report that is less than one year old (Fish & G. Code, § 1856(g)(17) and § 1798(b)(2)(L)).
- **7.4**– Exhibit N: Real Estate Instrument: CDFW’s standard mitigation conservation easement (with red-line track-changes in a Word document) or another long-term durability instrument (if applicable); and an explanation of how the long-term durability of the MCA site will be ensured (Fish & G. Code, § 1856(g)(12)).
 - If the MCA occurs within an approved NCCP area, the real estate instrument must provide perpetual protection of the land in a manner consistent with the NCCP.
- **7.5** – Exhibit O: Title Insurance: Title Insurance (if applicable) or an explanation why Title Insurance is not needed.

³ See template PAW available on [CDFW’s Conservation and Mitigation Banking Instructions and Templates web page](#) (note: replace “bank” with “MCA site” and replace “BEI” with “MCA” in the referenced templates)

Section 9 - Financial Securities and Funding

- **9.1 - Security:** List all securities that will be needed (e.g., construction, performance, interim management, compliance), including describing what period the securities will cover, the tasks or performance standards that are to be covered by the securities, and the proposed form and estimated value of each security (e.g. an irrevocable standby letter of credit or cash) (Fish & G. Code, § 1856(g)(17) and § 1798.5(a)(2)(G)).
 - Exhibit P – Security Analysis
- **9.2 - Long-term Management Funding** has been described as follows (Fish & G. Code, § 1856(g)(13)):
 - Ensures that the implementation of the conservation action or habitat enhancement action will be adequately funded, and that long-term protection and management of the site will be funded in accordance with Chapter 4.6 (commencing with Section 65965) of Division 1 of Title 7 of the Government Code.
OR
 - For MCAs proposed by a state agency, other comparable funding mechanism approved by the department in accordance with an adopted statewide policy regarding funding for long-term management and operations of mitigation sites.
 - Exhibit Q - Endowment Fund Analysis: A property analysis record or other comparable economic analysis of the funding necessary to support MCA maintenance activities, such as monitoring and reporting, in perpetuity (Fish & G. Code, § 1856(g)(17) and § 1798.5(a)(2)(F)).
 - If the MCAs is proposed on CDFW lands, outline how the full cost of the MCA is accounted for (see RCIS Program Guidelines Section 5.2.4(c)).
 - Exhibit R - Endowment Fund Schedule

Section 10 - Credit Type, Release, Sale and Use, and Reporting

- **10.1 - Credit Type and Quantity:** The MCA must describe the proposed type and quantity of credits to be created and the supporting rationale, including how the credits correlate to the focal species and other species, habitat, and other natural resources protected by the conservation actions or habitat enhancement actions (Fish & G. Code, § 1856(g)(9)).
 - Exhibit S - Credit Evaluation
 - Exhibit T- Credit Table
- **10.2 - Credit Release Schedule:** Credit Release Schedule for each type of credit, phases if applicable, and the performance-based milestones and achievement of ecological performance standards that are to be met

prior to the credit release(s) (Fish & G. Code, § 1856(g)(18).

- Exhibit U – Credit Release Schedule

- 10.3** - Credit Sale and Use:

- Terms of sale and use of credits that explain the conditions under which the proposed credits may be sold, used, or returned back to the MCA sponsor (Fish & G. Code, § 1856(g)(15).

- Identifies overlapping mitigation banks and conservation banks approved by the department as a mitigation alternative and explains how available mitigation credits at those banks will be purchased or used lieu of, or in combination with, the mitigation credits created under the MCA or, if those available mitigation credits will not be purchased or used, why they will not be purchased or used (Fish & G. Code, § 1856(g)(6)).

- Exhibit V – Credit Sale and Use

- 10.4** - Credit Reporting: Explanation of how the proposed credits will be accounted for, including the specific methods proposed for reporting and maintaining a record of all credits created, released, sold, used, or returned (Fish & G. Code, § 1856(g)(15) and § 1856(f)(18).

- 10.4.1** – Exhibit W - Credit Receipt

- 10.4.2** – Exhibit X - Credit Ledger

Appendix C – MCA Checklist

MITIGATION CREDIT AGREEMENT CHECKLIST

This MCA checklist is part of the Regional Conservation Investment Strategies Program Guidelines (Guidelines) (Fish & Game Code, § 1856(a)), as referenced in Section 5 of the Guidelines. The following checklist includes items that are required of an MCA to be considered "complete." Each item indicates the source of the requirement in the Fish and Game Code (Sections 1850 – 1859). All references apply to the subsequent nested bullets unless otherwise indicated. The organization of this checklist follows the format used in the RCIS Program Guidelines – Appendix A – MCA Template.

MCA Name:

MCA sponsor:

Date submitted to CDFW:

Conditions for CDFW completeness review:

The following minimum requirements must be met before CDFW starts a completeness review:

The appropriate fees have been paid (Fish & G. Code, § 1857).¹

The MCA occurs within the area of an approved RCIS that includes the requirements of Fish & G. Code, § 1856(b).

If the MCA includes public lands, the public agency landowner approval letter or document is included as an attachment.

The MCA will not be utilized to fund or offset the costs of the design, construction, or mitigation of new Delta water conveyance facilities (Fish & G. Code, § 1855(d)).

The MCA Template is used, and:

- Template edits are in track changes
- All template language that is bracketed, bold, and italicized has been replaced with relevant information or deleted if not applicable.

All MCA submittals are provided as separate and clearly labeled PDFs; the MCA template is provided as a Word and PDF electronic file.

Accessibility:

All public draft MCA submittals are provided as PDFs that meet the Web accessibility standards of California Government Code 11135 and the U.S. Rehabilitation Act section 508.

MCA Template:

The following minimum requirements must be met for CDFW completeness review:

¹ See the [Regional Conservation Investment Strategies Program Guidelines: Fees](#) for the current fee schedule

Section 1 – Full name of the MCA included (Fish & G. Code, § 1856(g)(17) and § 1798(b)(2)(A))

Section 2 - Supporting Regional Conservation Investment Strategy (Fish & G. Code, § 1856(a))

- RCIS in which the MCA is located is identified and described
- Identify and describe the conservation and habitat enhancement action(s) that measurably advance the conservation objectives of an approved RCIS that may be used to create mitigation credits, which can be used to compensate for impacts to focal species and other species, habitat, and other natural resources.

Section 3 – The MCA purpose and need are outlined along with any other objectives (Fish & G. Code, § 1856(d)).

Section 4 - MCA Site and Service Area Information

- 4.1** – Property Ownership Description: Owner(s) of each MCA site (Fish & G. Code, § 1856(g)(11) and § 1798(b)(2)(F))
- 4.2** – Contact Information: Contact information for all applicable parties. Include: MCA sponsor, MCA site property owner, MCA site manager, conservation easement grantee or long-term durability agreement entity, endowment holder, and any contractors or consultants (Fish & G. Code, § 1856(g)(1) and Fish & G. Code, § 1798(b)(2)(B)).
 - Exhibit A**- Contact Information
- 4.3** – Qualifications: Qualifications of all applicable parties, including: MCA sponsor, land manager, conservation easement grantee (if applicable), endowment holder (if applicable), and any contractors, or consultants (Fish & G. Code, § 1856(g)(1)). Both the conservation easement grantee and site manager are subject to CDFW's due diligence requirement.²
 - Endowment holder self-certification letter to CDFW that indicates they meet the requirements of Government Code section 65968, subdivision (e)(1-5) (Fish & G. Code, § 1856(g)(13)).
- 4.4** – Location Information: Location information to identify the MCA site(s), including size and address.
 - Exhibit B – General vicinity map and site map, reference maps, including enhancement areas and a 7.5-minute United States Geological Survey map showing the proposed boundaries of the MCA.
 - Identifies public lands and permanently protected lands in the vicinity of the conservation actions or habitat enhancement

² Information about the due diligence process is available on [CDFW's Endowments and Mitigation Land Management web page](#).

actions (Fish & G. Code, § 1856(g)(8)).

- KMZ file showing the location of the MCA site(s).
- Exhibit C- Photographs, including color aerial and ground-level photographs that reflect current conditions on the site and surrounding properties (Fish & G. Code, § 1856(g)(3), § 1856(g)(4), and § 1856(g)(17)).
- **4.5** – Service Area: A written description of the service area for each credit type, including an ecological based justification for how each service area was determined, and maps (Fish & G. Code, § 1856(g)(17), § 1798(b)(2)(I) and § 1798.5(a)(2)(D))
- Exhibit D –Service Area Map
 - KMZ file showing the service area for each credit type

Section 5 - MCA Site Declarations and Review

- **5.1** - Land Use Consistency Declaration: Outline that the MCA site has not been, or is not currently being used, as mitigation; is not designated or dedicated for park or open space use; and is not designated for purposes that may be inconsistent with habitat preservation (Fish & G. Code, § 1856(f), § 1856(g)(17) and § 1798(b)(2)(M)).
- **5.1** - Land Use Consistency Declaration (continued): If the MCA is located within the boundary of an existing NCCP, include approval from the NCCP implementing entity (Fish & G. Code, § 1856(k)).
 - Exhibit E – NCCP Approval Letter (if applicable)
- **5.2** - Public Funding: Detailed description of any public funding received (if applicable) Fish & G. Code, § 1856(g)(17) Fish & G. Code, §1798(b)(2)(N)).
- **5.3** - MCA Site Inspection by CDFW
- **5.4** – Tribal Resources
 - Exhibit F – Tribal Resources Summary
- **5.5** – Approvals: List all permits, authorizations, and other approvals needed for the MCA.
 - Once obtained, provide all permits, authorizations, and other approvals shall be provided to CDFW.
- **5.6** - Compliance with the California Environmental Quality Act
 - Submit all CEQA documents related to the MCA prior to MCA approval.
 - Provide the name of the Lead Agency, state clearinghouse number and type of document, and date certified.

Section 6- MCA Site Development, Management, and Operations

- **6.1-** Exhibit G: Natural Resources Evaluation, including documentation of biotic and abiotic baseline conditions, including past, current, and adjacent land uses, vegetation types, species information, topography, hydrology, and soil types (Fish & G. Code, § 1856(g)(7)).
- **6.2** –Development Plan:
 - Exhibit H – Draft Development Plan, if the MCA site development includes ground disturbance (Fish & G. Code § 1856 (g)(5) and §1798(a)(2)(B)).
 - Identify metrics or indicators by which the proposed conservation actions or habitat enhancement actions contribute to achieving the strategy’s conservation goals and objectives that can feasibly be measured with existing technology (Fish & G. Code, § 1856(g)(10)).
- **6.3** - Exhibit I –Interim Management and Monitoring Plan (Fish & G. Code, § 1856(g)(17) and § 1798.5(a)(2)(B)).
- **6.4** - Exhibit J –Long-term Management and Monitoring Plan (Fish & G. Code, § 1856(g)(14), § 1856(g)(17) and § 1798.5(a)(2)(B)).

Section 7– MCA Site Evaluation

- **7.1** – Exhibit K: Phase I Environmental Site Assessment, conducted no more than six months prior to the date the MCA is submitted. Performed in accordance with the American Society of Testing and Materials (ASTM) Standard E1527-05 (Fish & G. Code, § 1856(g)(17) and § 1798.5(a)(2)(H)).
- **7.2** – Exhibit L: Legal Description and Plat Map
- **7.3** – Exhibit M: Property Assessment and Warranty.³
 - Preliminary Title Report that is less than one year old (Fish & G. Code, § 1856(g)(17) and § 1798(b)(2)(L)).
- **7.4**– Exhibit N: Real Estate Instrument: CDFW’s standard mitigation conservation easement (with red-line track-changes in a Word document) or another long-term durability instrument (if applicable); and an explanation of how the long-term durability of the MCA site will be ensured (Fish & G. Code, § 1856(g)(12)).
 - If the MCA occurs within an approved NCCP area, the real estate instrument must provide perpetual protection of the land in a manner consistent with the NCCP.
- **7.5** – Exhibit O: Title Insurance: Title Insurance (if applicable) or an

³ See template PAW available on [CDFW’s Conservation and Mitigation Banking Instructions and Templates web page](#) (note: replace “bank” with “MCA site” and replace “BEI” with “MCA” in the referenced templates)

explanation why Title Insurance is not needed.

Section 9 - Financial Securities and Funding

- 9.1 - Security:** List all securities that will be needed (e.g., construction, performance, interim management, compliance), including describing what period the securities will cover, the tasks or performance standards that are to be covered by the securities, and the proposed form and estimated value of each security (e.g. an irrevocable standby letter of credit or cash) (Fish & G. Code, § 1856(g)(17) and § 1798.5(a)(2)(G)).
 - Exhibit P – Security Analysis
- 9.2 - Long-term Management Funding** has been described as follows (Fish & G. Code, § 1856(g)(13)):
 - Ensures that the implementation of the conservation action or habitat enhancement action will be adequately funded, and that long-term protection and management of the site will be funded in accordance with Chapter 4.6 (commencing with Section 65965) of Division 1 of Title 7 of the Government Code.
OR
 - For MCAs proposed by a state agency, other comparable funding mechanism approved by the department in accordance with an adopted statewide policy regarding funding for long-term management and operations of mitigation sites.
 - Exhibit Q - Endowment Fund Analysis: A property analysis record or other comparable economic analysis of the funding necessary to support MCA maintenance activities, such as monitoring and reporting, in perpetuity (Fish & G. Code, § 1856(g)(17) and § 1798.5(a)(2)(F)).
 - If the MCAs is proposed on CDFW lands, outline how the full cost of the MCA is accounted for (see RCIS Program Guidelines Section 5.2.4(c)).
 - Exhibit R - Endowment Fund Schedule

Section 10 - Credit Type, Release, Sale and Use, and Reporting

- 10.1 - Credit Type and Quantity:** The MCA must describe the proposed type and quantity of credits to be created and the supporting rationale, including how the credits correlate to the focal species and other species, habitat, and other natural resources protected by the conservation actions or habitat enhancement actions (Fish & G. Code, § 1856(g)(9)).
 - Exhibit S - Credit Evaluation
 - Exhibit T- Credit Table
- 10.2 - Credit Release Schedule:** Credit Release Schedule for each type of

credit, phases if applicable, and the performance-based milestones and achievement of ecological performance standards that are to be met prior to the credit release(s) (Fish & G. Code, § 1856(g)(18).

- Exhibit U – Credit Release Schedule

- 10.3** - Credit Sale and Use:

- Terms of sale and use of credits that explain the conditions under which the proposed credits may be sold, used, or returned back to the MCA sponsor (Fish & G. Code, § 1856(g)(15).

- Identifies overlapping mitigation banks and conservation banks approved by the department as a mitigation alternative and explains how available mitigation credits at those banks will be purchased or used lieu of, or in combination with, the mitigation credits created under the MCA or, if those available mitigation credits will not be purchased or used, why they will not be purchased or used (Fish & G. Code, § 1856(g)(6)).

- Exhibit V – Credit Sale and Use

- 10.4** - Credit Reporting: Explanation of how the proposed credits will be accounted for, including the specific methods proposed for reporting and maintaining a record of all credits created, released, sold, used, or returned (Fish & G. Code, § 1856(g)(15) and § 1856(f)(18).

- 10.4.1** – Exhibit W - Credit Receipt

- 10.4.2** – Exhibit X - Credit Ledger