



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

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



December 9, 2022

Aaron Johnston
Graniterock
5225 Hellyer Avenue, Suite 220
San Jose, California 95138

Subject: Incidental Take Permit for Graniterock A. R. Wilson Quarry Project at South Canyon (2081-2020-020-04)

Dear Aaron Johnston:

Enclosed you will find an electronic copy of the incidental take permit for the above referenced Project, which has been digitally signed by the California Department of Fish and Wildlife (CDFW). Please read the permit carefully, sign the acknowledgement, and return the original **no later than 30 days from CDFW signature**, and prior to initiation of ground-disturbing activities. You may return a hard copy of the permit via mail to:

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

Alternatively, you may return an electronic copy of the permit with digital signature to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned.

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

The permit will not take effect until the signed acknowledgement is received by CDFW. If you wish to discuss these instructions or have questions regarding the permit, please contact Renée Robison, Senior Environmental Scientist (Specialist), at renee.robison@wildlife.ca.gov or (559) 580-3201.

Sincerely,

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager

Enclosure

Conserving California's Wildlife Since 1870



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

California Endangered Species Act
Incidental Take Permit No. 2081-2020-020-04

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

I. Authority:

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

Permittee:	Graniterock
Principal Officer:	Aaron Johnston
Contact Person:	Pat Mapelli, 408-574-1479
Mailing Address:	5225 Hellyer Avenue, Suite 220 San Jose, California 95138

II. Effective Date and Expiration Date of this ITP:

This ITP shall become effective when signed by all parties and received by CDFW as described in the Notices section of this ITP. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **December 31, 2047**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 7.13 of this ITP.

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

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

III. Project Location:

The Graniterock A.R. Wilson Quarry Project at South Canyon (Project) is located near the City of Aromas in San Benito County (Figure 1). The Project is comprised of two discrete locations: 1) the "Project Overburden Site" and 2) the "Mitigation Site". The Project Overburden Site is located immediately south of the existing Graniterock A.R. Wilson Quarry, approximately 0.59 mile north of the intersection of California State Route (SR) 156 and Cannon Road, at approximately 36.869471, -121.602326 within United States Geological Survey (USGS) San Juan Bautista 7.5-minute quadrangle (Figure 2). The Mitigation Site is approximately 1.2 miles northeast of the Project Overburden Site and 1 mile west of the intersection of SR129/United States Route 101 and Anzar Road at approximately 36.881825, -121.580221 within USGS Chittenden 7.5-minute quadrangle (Figure 3).

IV. Project Description:

The Project includes two discrete elements: 1) the placement of approximately 4.4 million cubic yards of soil and sedimentary rock (overburden), removed from the A.R Wilson Graniterock Quarry, within a 36.87-acre portion of the South Canyon portion of the Brigantino property (Project Overburden Site) and 2) habitat restoration and enhancement activities within an 86-acre off-site property (Mitigation Site) associated with compensatory mitigation required for the Streambed Alteration Agreement (Notification No. 1600-2018-0129-R4, hereafter, SAA) issued by CDFW to Graniterock. Graniterock has also proposed the Mitigation Site to compensate for the impacts resulting from the Project and to serve as the Habitat Management Lands pursuant to Condition of Approval 9 of this ITP, but CDFW has not approved the Mitigation Site to fulfill Condition of Approval 9 at this time. The Project is needed because the existing, active overburden placement area for Graniterock A.R. Wilson Quarry within Muertos Canyon, located immediately north of the Project Overburden Site, is nearing capacity.

Project Overburden Site

The purpose of the Project is to use the 36.87-acre Project Overburden Site for placement of 4.4 million cubic yards of overburden. Overburden placement and final reclamation of the Project will occur over a period of approximately 25 years, depending on market demand.

Pre-Construction

A boundary, consisting of wildlife exclusion fence, will be established around the perimeter of the Project Overburden Site and will remain in place until reclamation activities are completed within the Project Overburden Site. The boundary will be established to: 1) delineate the edge of Project-related disturbance and prevent work for occurring outside of the Project Overburden Site, and 2) to serve as a wildlife exclusion fence to prevent entry by wildlife during active overburden placement. The long-term exclusion fence will be established prior to the start of initial grubbing and grading and will be maintained through the life of the Project.

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

Access and Staging

The Project Overburden Site will be accessed from the north through the existing operational quarry via the previously disturbed quarry footprint (Figure 2). Equipment and materials for installation of the wildlife exclusion fencing will be staged within the northern and western portions of the Project Overburden Site depicted in Figure 2 until the long-term wildlife exclusion fencing has been installed around the perimeter of the Project Overburden Site. Once wildlife exclusion fencing has been installed, equipment and materials will be staged within any portion of the Project Overburden Site. No improvements or modifications to roads will be necessary to facilitate access to the Project Overburden Site.

Initial Ground Disturbance and Overburden Placement

Vegetation will be removed from the Project Overburden Site in preparation for overburden placement. Following vegetation removal, the top layer of soil, to a depth of approximately 1 foot, will be removed and stockpiled on site for future use in revegetation activities. Heavy equipment including dozers, scrapers, and loaders will be used to conduct vegetation and topsoil removal. To facilitate movement of overburden from the adjacent Muertos Canyon to the Project Overburden Site, an existing conveyor system will be extended into the Project Overburden Site. The conveyor system will be extended systematically, using a crane and other high-lift equipment to attach framing or place foundational supports. Once extended, placement of overburden within the Project Overburden Site via the conveyor system will begin. As overburden is deposited, heavy equipment such as loaders and dozers will key in, distribute, and compact the material to solidify and stabilize the material. Throughout the life of the Project, general equipment maintenance will occur in the Project Overburden Site.

Drainage Systems

Surface and subsurface drainage systems will be constructed and maintained to prevent runoff- and stormwater-related issues in the Project Overburden Site. The drainage systems will be designed to retain surface water on the property, so it percolates to groundwater. This includes the installation of temporary drainage channels that will route surface water to a retention basin that will be built at the base of the overburden embankment in the southern region of the Project Overburden Site. Temporary grass-lined channels will be placed on the top of the embankment and the base of each slope bench to carry drainage to the retention basin. Once overburden placement is completed, perforated pipe will be placed in the bottom of the trench drains and the trenches will be backfilled with pervious filter aggregate designed to prevent infiltration to adjacent soils. Equipment will include excavators, dump trucks, loaders, and other similar equipment.

Reclamation and Revegetation

Once overburden placement has been completed, as part of reclamation activities, the Project Overburden Site will be replanted according to specifics in a future revegetation plan developed for the Project to be approved by CDFW. Following reclamation activities, overburden placement will be complete and wildlife exclusion fencing will be removed.

Project activities within the Project Overburden Site include: grubbing and grading of the entire Project Overburden Site, installation of wildlife exclusion fencing; vegetation and tree

removal; topsoil removal and stockpiling; extension of an existing conveyor system; depositing overburden via conveyor system; keying in, distributing, and compacting overburden; excavating retention basin and temporary drainage channels; materials and equipment staging and laydown; transporting materials and other Project-related traffic; installing perforated pipe into drainage channels that lead to retention basin; backfilling drainage channels with aggregate; and reclamation and revegetation of the Project Overburden Site following overburden placement activities. In total, the Project will occur within the entire 36.87-acre Project Overburden Site of which approximately 9.2 acres is eucalyptus grove.

Mitigation Site

To mitigate for impacts to streams within the Project Overburden Site and as required by the SAA No. 1600-2018-0129-R4 issued by CDFW to the Permittee, habitat enhancement activities will occur on portions of an approximately 86-acre Mitigation Site. Initial habitat enhancement activities will consist of reestablishment, rehabilitation, and enhancement of on-site ephemeral drainages (i.e., streams) to restore function and/or provide stabilization against erosion. In addition, to compensate for the loss of riparian habitat from the Project Overburden Site, willow and oak riparian areas will be established through installation of riparian plantings. Separate from the Streambed Alteration Agreement requirements, habitat enhancement activities also include creation of potential Covered Species breeding habitat. Locations of all restoration activities are depicted in Figure 4.

At the Mitigation Site, the initial restoration activities will include planting of oaks, willows, other native trees, and shrubs, application of native seed mix, pond construction, and debris removal. A temporary irrigation system would be installed to irrigate the plantings for two to three years following installation. In addition, the installation of willow trenches and willow clusters, erosion control fabric, fiber rolls, cattle exclusion fencing, and/or minor recontouring, and placement of rock materials may be utilized. These activities are anticipated to be completed within five (5) years of issuance of this ITP.

Access and Staging

Access to the Mitigation Site will primarily occur through existing exterior gates along Anzar Road (Figure 3). Two other existing access points to the north and west may occasionally be used to minimize vehicle traffic traversing the Mitigation Site. Use of these alternate access points will be informed by the location of restoration activities. Existing paved, dirt, and ranch roads and routes will be used for ingress and egress into and out of the Mitigation Site and no improvements or modifications to existing roads are needed to facilitate access. Access to the restoration locations within the Mitigation Site will predominantly follow existing routes used by the current grazing operator (Figure 4). Temporary protective mats will be placed at equipment crossings over streams to prevent soil compaction and erosion during implementation of the restoration activities. No grading or other modifications for access will be needed. Staging Areas for equipment and materials will be limited to along the shoulder of Anzar Road adjacent to the Mitigation Site (approximately 0.36 acre), within an extant 0.09-acre developed area, and within the approximately 0.51-acre Pacific Gas & Electric Easement that parallels Anzar Road (Figure 3).

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

Ephemeral Drainages and Seasonal Wetlands

Reestablishment will occur in segments along Ephemeral Drainages 1 and 3 (Figure 4) where previous disturbance and/or automotive debris (an abandoned bus, truck chassis, and tires) are currently restricting channel flow. Reestablishment will consist of debris removal, erosional stabilization, and adjacent riparian plantings.

Rehabilitation will occur in segments along Ephemeral Drainages 1, 3, and 4 (Figure 4) where recent/ongoing erosional issues (e.g., headcuts or slumping) will be stabilized. Stabilization activities will be confined to: 1) planting of oaks, willows, or native shrubs; 2) application of native seed mix; 3) placement of erosion control fabric; 4) minor recontouring; and/or 5) use of rock material.

Enhancement will occur in segments along Ephemeral Drainages 1, 3, and 4 (Figure 4) which are currently stable, with no active erosion concerns. Enhancement activities will be confined to planting riparian oak and/or willow trees along drainages.

Riparian Plantings

Approximately 198 coast live oak trees as well as other native trees and shrubs will be planted within 1.60 acres along segments of Ephemeral Drainages 1, 3, and 4. Oak plantings will be protected with cattle exclusion fencing and irrigated until they are established as required by the SAA. In addition, 33 willow trees will be planted within 0.13 acre adjacent to Ephemeral Drainages 3 and 4. Oaks will be sourced from the Permittee's nursery and willow pole cuttings will be sourced from existing on-site trees.

Bio-Engineering Treatments

Bio-engineering treatments involving willow plantings in the form of "willow trenches" and "willow clusters" are proposed at strategic locations in Ephemeral Drainage 3 and 4 to address active bank erosion and/or knickpoints (i.e., small head cuts). The specific configuration of these treatments will be customized for the field conditions and adjusted to fit each location.

The primary bio-engineering treatment will be willow trenches at two sections in Ephemeral Drainage 3. The downstream location has active bank erosion and/or knickpoints over 1.5 feet high, and the upstream location is where large automotive chassis debris will be removed in a steep channel segment with active bank and bed erosion. Willow trenches consist of densely planted willow cuttings arranged in a "V" formation. These treatments will add roughness above ground and increase soil cohesion below the ground when the willows are established. They slow flow velocities and focus hydraulic energy to the center of the drainageway.

Given the steep slopes and varied swale width, the geometry of the willow trenches will be adjusted to fit each location and properly tie into the side slopes to minimize the possibility of flow escaping around the ends of treatments. The willows will be planted in a densely spaced but staggered pattern that limits the potential for concentrated flow paths. Minor earthwork and/or auguring with hand tools are required for planting. Vehicles would only be used to

transport personnel, equipment, materials, and willows to and from each treatment location. Straw wattles and/or erosion control fabric that does not adversely detain or pond water will be installed to prevent erosion during the willow establishment period.

A secondary bio-engineering treatment will be willow clusters (willow stakes installed in clusters) at selected locations along the toe of slope or swale bottom where there is minor, active erosion and/or small knickpoints at Ephemeral Drainage 4. This treatment may also be required where smaller pieces of automotive metal debris is removed and will expose vulnerable soils on the channel bed or bank. The exact location and number of willow clusters will be determined based on conditions in the field.

Pond Construction

A pond will be constructed in the Mitigation Site in an effort to promote breeding and support population reestablishment of the Covered Species. The pond will be constructed in the eastern portion of the Mitigation Site, just east of Ephemeral Drainage 5 (Figure 4). The pond will measure approximately 0.03 acre in size, 4-foot deep at its deepest point, average depth of 36 inches, and will be designed to naturally dry down annually.

To construct the pond, soil will be excavated using a mid-sized excavator to form a basin in a relatively flat location where it can collect sheet flow from rain events. The side slopes will be compacted and lined with bentonite to reduce soil infiltration. Subgrade compaction will be performed within the area excavated for the pond with a tamping rammer or similar walk-behind gas-powered equipment. Once the pond is excavated to the target depth, subgrade soil will be compacted prior to the installation of a bentonite layer. The bentonite sealant layer will be compacted to meet product specifications. Specific compaction requirements will be informed by product specifications and determined based on further site studies. The bentonite layer will be comprised of a mixture of native soil and bentonite chips. roughly 1-foot deep layer (roughly 44 cubic yards) which may be installed in a series of lifts. The volume of bentonite chips to be used is estimated to be between 5 and 6 cubic yards (roughly 12% by volume) which are subject to change based on site-specific recommendations from a geotechnical engineer.

A protective layer of inert material (i.e., washed granular rock, such as crushed stone) will be applied on top of the bentonite layer to protect the bentonite from cattle disturbance. The purpose of the inert material layer is to protect the bentonite sealant layer from cattle hooves while also inhibiting the growth of emergent vegetation to provide optimal conditions for CTS. The material will be placed into the pond footprint and spread into a roughly 6-inch layer on top of the bentonite sealant. Pond side slope grades will range between 2:1 and 4:1 and will be unvegetated.

The pond will be designed so that off-site hauling of excavated material from its construction will not be needed. Instead, a broad, gently sloping berm, approximately 0.11 acre in size, will be created using a mid-sized excavator along the pond's western edge to utilize the excavated material. The berm's shape and side slope will be designed to mimic the site's existing topography and minimize erosion during high-runoff events.

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

Minor grading using a mid-sized excavator to repair erosion rills, approximately three to six inches deep, will occur on the scarp slope within an area of approximately 0.31 acre northeast of the pond to minimize erosion and sedimentation to the pond. Any needed fine grading associated with pond construction, berm creation, or within the scarp slope will be completed using hand tools. A handheld seed-spreader will be used to seed a CDFW-approved erosion-control seed mix following completion of grading activities in the following areas: the berm, the repaired scarp slope, and the other graded areas surrounding the pond resulting from pond construction. Following seeding, placement of erosion control fabric will be installed by hand and container plants will then be planted by cutting small slits in the fabric for placement.

Within the Mitigation Site, restoration activities will be conducted by a small construction crew. All work will be confined to the dry season. Work will be conducted using handheld tools such of shovels and gas-powered augers. Use of additional equipment, such as a mid-size excavator, loader, tow truck, and compactor (i.e., tamping rammer or similar walk-behind gas-powered equipment) will also be needed. Trucks and/or off-road utility vehicles will be used to access the site and shuttle laborers, materials, or tools to the restoration locations.

Project activities within the Mitigation Site include the planting of oaks, willows, other native trees, and shrubs; applying native seed mix; excavating/constructing the pond; compacting the pond soil; creating the pond's berm; grading slopes; removing debris; installing a temporary irrigation system; installing willow revetments (willow trenches/willow clusters), erosion control fabric, fiber rolls, and cattle exclusion fencing; minor recontouring; installing rock materials, and other activities.

In total, restoration activities within the Mitigation Site will result in the permanent disturbance to 0.03 acre for creation of the pond and the temporary disturbance of 3.14 acres for the initial restoration activities and staging areas.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ³
1. California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ⁴

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

VI. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species within the Project Overburden Site

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

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

include: installing and removing wildlife exclusion fencing; removing vegetation and trees; grubbing and grading of the entire Project Overburden Site; removing topsoil; stockpiling; extension of an existing conveyor system; depositing overburden via conveyor system; keying in, distributing, and compacting overburden; excavating retention basin; materials and equipment staging and laydown; transporting materials and other Project-related traffic; installing perforated pipe into drainage channels; backfilling drainage channels with aggregate; reclamation and revegetation of the Project Overburden Site following overburden placement activities; and other related activities described in the Project Description of this ITP. The activities described above expected to result in incidental take of individuals of the Covered Species within the Mitigation Site include: planting of oaks, willows, other native trees, and shrubs; applying native seed mix; excavating/constructing the pond; compacting soil for the pond; creating the pond's berm; grading slopes; removing debris; installing temporary irrigation system; installing willow revetments (willow trenches/willow clusters), erosion control fabric, fiber rolls, and cattle exclusion fencing; minor recontouring; installing rock materials; and other related activities described in the Project Description section of this ITP. Collectively, these activities are referred to as Covered Activities.

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as construction vehicle/equipment strikes and burrow collapse associated with grubbing, grading, excavating, and vegetation and topsoil removal; crushing or suffocation by heavy equipment or laydown of equipment and materials; and entombment from deposition of overburden over occupied burrows. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from capture of individuals in confined areas when wildlife exclusion fencing is constructed around the Project Overburden Site and when individuals of the Covered Species are salvaged, collected, and relocated or translocated out of harm's way as required by this ITP. The areas where authorized take of the Covered Species is expected to occur include: the 36.87-acre Project Overburden Site, the Work Areas within the 86-acre restoration Mitigation Site, access roads and routes, staging areas, and any location where Project activities include grading, grubbing, cut, fill, or other ground or vegetation disturbance (collectively, the Project Area). Work Areas are defined as the discrete location(s) within the Mitigation Site where restoration Covered Activities will occur.

At the Project Overburden Site, the Project is expected to cause the permanent loss of 27.67 acres of upland habitat for the Covered Species. Within the Mitigation Site, the Project is expected to cause the permanent loss of 0.03 acre of upland habitat for the Covered Species, and temporary loss of 1.29 acres of upland habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: introduction or spread of invasive species; increased risk of exposure and desiccation along wildlife exclusion fencing; stress resulting from noise, vibrations, capture, and relocation; displacement from preferred habitat; loss of burrowing habitat used for shelter and cover;

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

increased competition for food and space; and increased vulnerability to predation. In addition, individuals displaced due to habitat loss and degradation may be unable to survive in adjacent areas if these areas are at carrying capacity or are unsuitable for colonization.

VII. Incidental Take Authorization of Covered Species:

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

VIII. Conditions of Approval:

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **California Environmental Quality Act (CEQA) Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Granite Rock Company Brigantino Overburden Project Environmental Impact Report (EIR; SCH No.: 1988062818) certified by San Benito County on January 27, 1993, as lead agency for the Project pursuant to CEQA and as further described and considered in an addendum to the EIR approved by CDFW acting as a responsible agency (as defined in the CEQA Guidelines section 15381) for the Project pursuant to CEQA to analyze potential impacts from the proposed mitigation and restoration activities at the Anzar Road property Mitigation Site (Pub. Resources Code, § 21000 et seq.).
3. **Streambed Alteration Agreement (SAA) Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the SAA (Notification No. 1600-2018-0129-R4) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **Endangered Species Act Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the take authorization, or Biological Opinion, for Graniterock A.R. Wilson Quarry Expansion, San Benito County, CRLF, CTS (2022-0048094) for the Project pursuant to the Federal Endangered

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

Species Act. For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.

5. ITP Time Frame Compliance: Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

6. General Provisions:

6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

6.2. Designated Biologist(s) and/or Designated Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, contact information, and references with contact information of Designated Biologist(s) and Designated Monitor(s) using the Biologist Resume Example (Attachment 2) or another format containing the same information. This information shall be submitted for CDFW review and approval at least 30 days before starting Covered Activities. The Designated Biologist(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of the Covered Species and to minimize disturbance of Covered Species' habitat. The Designated Monitor(s) shall assist the Designated Biologist(s) in compliance monitoring under direction/supervision of the Designated Biologist(s). Designated Monitor responsibilities will be restricted to a specific set of Conditions of Approval, specified by the Permittee or Designated Representative at the time their qualifications are submitted for review. Permittee shall ensure that the Designated Biologist(s) and Designated Monitor(s) are knowledgeable and experienced in the Covered Species' biology, natural history, collecting and handling, as well as excavating burrows/crevices to minimize mortality and monitoring construction activities following the Conditions of Approval of an ITP for the Covered Species. The Designated Biologist(s) and Designated Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Designated Monitor(s) in writing before starting Covered Activities and shall also obtain approval in

advance, in writing, if the Designated Biologist(s) or Designated Monitor(s) must be changed.

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

all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at both Project sites upon request by CDFW.

- 6.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 6.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat. Permittee shall deploy erosion control fabric/mats, blankets, and/or fiber rolls consisting of only natural-fiber, biodegradable materials.
- 6.9. Delineation of the Work Areas at the Mitigation Site.** Before starting Covered Activities within the Mitigation Site, Permittee shall clearly delineate the boundaries of each Work Site where restoration activities will occur to distinguish it from the remaining portion of the Mitigation Site where no activities will occur. The boundaries of each Work Area shall be delineated with stakes and/or flags and shall be maintained with signage for the duration of Covered Activities at the Mitigation Site.
- 6.10. Delineation of Property Boundaries.** Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities.
- 6.11. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat. Permittee shall maintain all signs, stakes, flags, rope, cord, and fencing until the completion of Covered Activities in that area, at which time they should be removed.
- 6.12. Project Access.** Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description, and shall not cross

Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing roads within the Project Overburden Site. Permittee shall ensure that vehicle speeds do not exceed 10 miles per hour to avoid Covered Species on or traversing identified routes within the Mitigation Site. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

- 6.13. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.12 of this ITP.
- 6.14. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 6.15. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project Area and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.16. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove and properly dispose of all temporary fill and construction refuse from the Project Overburden Site and Mitigation Site, including, but not limited to, exclusionary fencing, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

7. Monitoring, Notification, and Reporting Provisions:

- 7.1. Notification Before Commencement.** The Designated Representative shall notify CDFW and provide documentation of compliance with all pre-Project Conditions of Approval at least 14 calendar days before starting Covered Activities within the Project Overburden Site and the Mitigation Site.
- 7.2. Notification of Non-compliance.** The Designated Representative or the Designated Biologist shall immediately notify CDFW via email if the Permittee is

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative or the Designated Biologist shall follow notification with a written report to CDFW within 24 hours describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.

- 7.3. Covered Species Mortality Reduction and Relocation Plan.** The Designated Biologist shall prepare a Covered Species Mortality Reduction and Relocation Plan and submit it to CDFW for review and approval a minimum of 30 days prior to the beginning of Covered Activities. The Covered Species Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion and map of the portion of the Project Area which represents potential upland habitat; identification of the area within 1.3 miles of known or potential breeding habitat for Covered Species; detailed survey, capture, handling, and relocation methods; identification of relocation areas; and identification of a wildlife rehabilitation center or veterinary facility capable of treating injured animals. Covered Activities may not proceed until the Covered Species Mortality Reduction and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling the Covered Species unless specifically approved in writing by CDFW and under the direct supervision of the Designated Biologist(s). Any proposed changes to the CDFW-approved Covered Species Mortality Reduction and Relocation Plan shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any proposed Covered Species Mortality Reduction and Relocation Plan modifications.
- 7.4. Mitigation Site Restoration Design Plan.** At least 30 days before starting Covered Activities within the Mitigation Site, the Permittee shall provide CDFW with the final detailed Restoration Design Plan for review and approval. The Plan shall include but not be limited to detailed descriptions of the activities within each ephemeral drainage, order of operations, dimensions, areas, volumes, type and size of materials, maps, and Geographic Information Systems (GIS) data files for all initial restoration activities described in Project Description Section of this ITP, i.e., pond creation, berm construction, grading cut/fill, debris removal, willow trench and willow cluster placement, cattle exclusion fencing (including gate design and locations), oak and willow riparian plantings, application of native seed mix, recontouring, rock placement, placement of erosion control fabric, and fiber roll installation.
- 7.5. Project Overburden Drainage Systems Design Plan.** Before starting Covered Activities within the Project Overburden Site, Permittee shall provide CDFW with the final detailed Drainage Systems Design Plan. The Plan shall include, but not be limited to, the dimensions, areas, volumes, materials, and locations of all drainage channels and the retention basin. Please describe the methods for

removing and/or filling in the retention basin and all drainage system features after overburden placement is complete during reclamation and prior to revegetation.

- 7.6. Geographic Information Systems Data Files.** Before starting Covered Activities, the Permittee shall provide CDFW with separate Geographic Information Systems (GIS) data files for the temporary and permanent habitat impact areas authorized under this ITP for the Covered Species for the Project Overburden Site and the Mitigation Site. If habitat for a Covered Species will be both temporarily and permanently impacted, the Permittee shall provide one set of GIS data files for each impact type. The Permittee shall provide any additional GIS data files for the Project or related Covered Species features within 30 days of CDFW's request. All GIS data files shall be provided in a format acceptable to CDFW.
- 7.7. Compliance Monitoring.** The Designated Biologist shall conduct daily compliance inspections and be on site for the duration of the day while wildlife exclusion fencing is installed and until clearing, grubbing, and grading are completed at the Project Overburden Site. The Designated Biologist shall be on site for the duration of the day and conduct at least daily compliance inspections at the Mitigation Site until Covered Activities are completed. The Designated Biologist shall conduct compliance inspections a minimum of weekly during periods of inactivity and after wildlife exclusion fencing is installed and clearing, grubbing, and grading are completed. The Designated Biologist shall conduct compliance inspections to:
- (1) minimize incidental take of the Covered Species;
 - (2) prevent unlawful take of species;
 - (3) check for compliance with all measures of this ITP;
 - (4) check all exclusion zones; and
 - (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

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

- 7.8. Record of Covered Species Relocation.** The Designated Biologist shall maintain a record of Covered Species handled and all documented observations of Covered Species. This information shall include for each animal: (1) date, time, and location (Global Positioning System (GPS) coordinates and maps) and capture and/or observation as well as release, if applicable; (2) the name of the party that

identified the Covered Species; (3) circumstances of the incident; (3) the general condition and health, noting all visible conditions including gait and behavior, ectoparasites, injuries, etc.; (4) any diagnostic markings, sex, age (juvenile or adult); (5) actions undertaken; (6) habitat description; and (7) ambient temperature when handled and released or observed. The Designated Biologist shall also submit this information to CDFW's California Natural Diversity Database (CNDDDB) as per Condition of Approval 7.11 below. The Designated Biologist shall prepare a Relocation Summary and include it in the Quarterly Compliance and Annual Status Reports described in Conditions of Approval 7.9 and 7.10, respectively, below.

- 7.9. Quarterly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.7 and 7.8 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall also include an accounting of the number of acres that have been permanently and temporarily disturbed by the Project within each Work Area, both for the prior quarter, and the total since ITP issuance, if applicable; the number of acres of habitat disturbance anticipated to occur in each Work Area during the coming quarter, if applicable; a summary of all pre-activity surveys and compliance monitoring conducted during the previous quarter; and the activities authorized under the Covered Activities which occurred during the previous quarter. Quarterly Compliance Reports shall be due by January 15, April 15, July 15, and October 15 via email to CDFW's Regional Representative, Regional CESA Program, and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Renee Robison (Renee.Robison@wildlife.ca.gov), Regional CESA Program email is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 7.10. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.9; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or

partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; and (6) information about other Project impacts on the Covered Species. ASRs shall be submitted to CDFW following the directions provided in Condition of Approval 7.9 above.

- 7.11. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CNDDDB within 30 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.12. Project Overburden Site Reclamation and Revegetation Plan.** At least 30 days prior to implementing reclamation and revegetation activities at the Project Overburden Site, Permittee shall submit a Reclamation and Revegetation Plan to CDFW for review and approval to facilitate reclamation and revegetation of the 36.87 acres of disturbance within the Project Overburden Site. Permittee shall restore the soil and vegetation to a condition conducive for Covered Species recolonization. Permittee shall ensure restoration is successfully implemented by the contractor. At a minimum, the Plan shall include the following information: (1) a map that identifies the location of the areas to be revegetated; (2) a description of the existing physical and biological conditions of the areas prior to commencement of any restoration activities; (3) identification of the final soil compaction rate that must be less than that of representative adjoining Covered Species habitat to a depth of no less than three feet; (4) description of how the native topsoil from the Work Areas and/or seed will be applied over the area to establish suitable vegetation for Covered Species; (5) a California native plant palette and seed sources; (6) a planting plan, including seed application method; (7) procedures to ensure that nonnative plants are not introduced or allowed to sustain within the revegetation areas and an annual nonnative removal plan; (8) avoidance and minimization measures; (9) monitoring and maintenance measures and a timeline when these will occur; (10) proposed success criteria and contingency measures if the first application is unsuccessful to ensure upland habitat suitability for Covered Species; (11) a funding source to cover the total costs of restoration; (12) indicate the time of year seeding will occur to ensure adequate growth without supplemental watering or describe the methods of supplemental watering delivery; and (13) the timeframe for which the site must sustain itself without supplemental watering and meet the identified success criteria.
- 7.13. Final Mitigation Report.** No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report following the directions provided in Condition of Approval 7.9 above. The Designated Representative or shall prepare the Final Mitigation Report which shall include, at

a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

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

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

8.1. Pre-Activity Clearance Survey and Reporting. No more than 14 calendar days prior to initiating Covered Activities within the Project Overburden Site and within each Work Area at the Mitigation Site, the Designated Biologist shall survey the Project Area for individuals of the Covered Species. These surveys shall provide 100 percent visual coverage (including burrow and crevice openings) at the Project Area as well as a 50-foot buffer zone around the Project Area. If individuals of the Covered Species are found, the Designated Biologist(s) shall relocate them in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan (Condition of Approval 7.3). The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities.

8.2. Flag Burrows/Crevices. During Pre-Activity Clearance Surveys (Condition of Approval 8.1), the Designated Biologist shall flag all animal burrows and crevices suitable for Covered Species occupancy within the Project Overburden Site and

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

within each Work Area at the Mitigation Site including a 50-foot buffer outside those areas. An avoidance buffer of 50 feet or greater around animal burrows/crevices shall be maintained regardless of if the burrow/crevice is in the Project Area or solely within the Project Area's 50-foot buffer zone. Flagged burrows/crevices which occur within 600 meters of known or potential breeding habitat and which cannot be avoided by at least 50 feet shall be fully excavated in accordance with Condition of Approval 8.3 below.

- 8.3. Burrow/Crevice Excavation.** Prior to initiating Covered Activities within the Project Overburden Site, animal burrows and crevices identified during the Pre-Activity Clearance Surveys (Condition of Approval 8.1) and flagged (Condition of Approval 8.2) within 600 meters of known or potential Covered Species breeding habitat as identified in the Covered Species Mortality Reduction and Relocation Plan (Condition of Approval 7.3), and which cannot be fully avoided by at least 50 feet, shall be fully excavated. Applicable burrows/crevices may be excavated by hand or in a manner otherwise approved by CDFW in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan (Condition of Approval 7.3). Burrow/crevice excavation shall occur under the direct supervision of the Designated Biologist(s).

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

- 8.4. Exclusion Fencing.** Prior to initiation of Covered Activities and following surveying, flagging, and excavating burrows/crevices in accordance with Conditions of Approval 8.1, 8.2, and 8.3 above, Permittee shall install long-term exclusion fencing around the perimeter of the Project Overburden Site to prevent Covered Species from migrating into the cleared Project Overburden Site.

Permittee shall install temporary, untrenched exclusion fencing around the Staging Areas for the Project Overburden Site following surveying, flagging, and excavating burrows/crevices in accordance with Conditions of Approval 8.1, 8.2, and 8.3 above while installing the long-term exclusion fencing. Vehicles, equipment and materials shall not enter or be placed within the Staging Areas until temporary exclusion fencing has been installed around each Staging Area.

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

Vehicles, equipment, and materials shall not enter or be placed within all other areas of the Project Overburden Site until the long-term wildlife exclusion fencing has been installed around the entire perimeter. Once long-term exclusion fencing has been installed, Permittee shall remove the temporary exclusion fencing.

Permittee shall submit an Exclusion Fencing Plan to CDFW for review and approval a minimum of 30 days prior to commencing Covered Activities. The Exclusion Fencing Plan shall include fencing materials, detailed design (including maps) and installation methods, gate design and location, and inspection, maintenance, repair, and replacement methods and intervals. The Exclusion Fencing Plan shall include the required information for both the long-term exclusion fencing and the temporary Staging Area fencing. Installation of exclusion fencing and initiation of Covered Activities shall not proceed until the Exclusion Fencing Plan has been approved in writing by CDFW.

- 8.5. Exclusion Fence Installation.** The exclusion fence shall be installed under the direct supervision of the Designated Biologist and begin no later than 48 hours after the burrow/crevice excavation and relocation activities per Condition of Approval 8.3 is complete.

The Permittee shall also avoid animal burrows and crevices to the maximum extent possible during the installation of the exclusion fence. When animal burrows and crevices that are within 600 meters of known or potential Covered Species breeding habitat cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be excavated as described in Condition of Approval 8.3, above, prior to commencing fence installation. Permittee shall remove exclusion fencing immediately upon completion of Covered Activities in the fenced Project Area.

- 8.6. Fieldwork Code of Practice.** To ensure that disease is not conveyed between Work Areas by the Designated Biologist(s) or Designated Monitors(s), the Fieldwork Code of Practice developed by the Declining Amphibian Populations Task Force (see Attachment 3) shall be followed at all times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.
- 8.7. Dry Season Work.** Within the Mitigation Site, Permittee shall confine ground-disturbing activities to the dry season (generally May 1 to October 31) and shall complete activities prior to the onset of winter rains. Ground-disturbing activities conducted during the dry season shall not occur until on-site ponds are dry, unless surveys are conducted to demonstrate the absence of Covered Species eggs or larvae.

- 8.8. Rain Forecast.** The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. During rainfall events and/or when a 50 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas within the Mitigation Site until the rainfall ceases and a zero percent chance of rain is forecast and within the Project Overburden Site where initial ground disturbance (vegetation removal, grading, grubbing, and excavation) has yet to occur until the rainfall ceases and a zero percent chance of rain is forecast. Covered Activities may continue within the Project Overburden Site if this area has already been cleared of Covered Species and is surrounded by exclusion fence that has been properly maintained and is in good repair, in accordance with the Project's CDFW-approved Exclusion Fencing Plan.
- 8.9. Soil and Materials Stockpiles.** Permittee shall ensure that soil stockpiles are placed where soil will not pass into the potential Covered Species breeding habitat, or into any other "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall stockpile and stage all materials and equipment in a manner that discourages Covered Species' use. In all locations, Permittee shall not place bundled or loose materials directly on the ground. These materials shall be elevated to discourage use by Covered Species. Permittee shall not place materials outside of exclusion fencing.
- 8.10. Open Excavations.** Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Work Area and/or Project Area at the beginning, middle, and end of each day (including weekends and any other non-work days) for trapped Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the worker(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. Worker(s) shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded, if possible, before Covered Activities are allowed to continue, or the Designated Biologist(s) may capture and relocate the Covered Species as per the

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.3 above.

- 8.11. Vehicle and Equipment Inspection.** Within the Project Area, workers shall inspect under vehicles and equipment for Covered Species before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist(s) and wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move the Covered Species out of harm's way outside of the Project Overburden Site in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.3. If a Covered Species is found within the Mitigation Site, the Designated Biologist(s) may move the Covered Species to an area where Covered Activities are not planned outside of the Work Areas, and in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.3.
- 8.12. Pipes and other Structures Entrapment Prevention.** Permittee shall ensure that all pipes, hoses, conduit, culverts, or similar materials stockpiled or installed in the Project Area are capped or otherwise enclosed at the ends to prevent entry by Covered Species. Workers shall thoroughly inspect all construction pipe, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the Covered Species before the object is subsequently moved, buried, or capped. If an individual of the Covered Species is discovered inside a pipe, culvert, or similar structure during inspection, the worker shall notify the Designated Biologist(s) and wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move Covered Species out of harm's way outside of the Project Overburden Site in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.3. If a Covered Species is found within the Mitigation Site, the Designated Biologist(s) may move the Covered Species to an area where Covered Activities are not planned outside of the Work Areas, and in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.3.
- 8.13. Covered Species Observations.** During all Covered Activities within the Project Area, all workers shall inform the Designated Biologist(s) if a Covered Species is observed within or near the Project Area. All work in the vicinity of the observed Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Project Area of its own accord or the Designated Biologist(s) relocates the Covered Species following the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.3 above.

- 8.14. Covered Species Injury.** If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.14. Notification shall include the name of the facility where the animal was taken.
- 8.15. Pesticide Use.** Permittee shall ensure that all pesticide use (mixing, application, and clean-up) is done by a licensed or certified applicator in accordance with all applicable state, federal, and local regulations. Permittee shall only apply pesticide sprays via ground application when wind speed measures less than 3 miles per hour. Permittee shall ensure that great care is taken to avoid pesticide drift outside the boundaries of the Project Overburden Site and/or Mitigation Site Work Areas. Permittee shall ensure that any pesticide used where there is the possibility that the pesticide could come into direct contact with water is approved for use in an aquatic environment.

- 9. Habitat Management Land Acquisition:** CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.

The Permittee proposes to permanently protect and perpetually manage the approximately 86-acre Mitigation Site, included as an element of this Project, to serve as compensatory habitat for overburden placement and Covered Species exclusion activities within the Project Overburden Site. However, to date Covered Species breeding has not been documented within the Mitigation Site's existing on-site pond. For this reason, as an element of this Project, the Permittee seeks to construct a pond within the Mitigation Site to serve as Covered Species breeding habitat. Because breeding has not been observed and documented at the Mitigation Site, CDFW has not provided conceptual approval of its use as compensatory habitat. If successful breeding of the Covered Species is documented on the Mitigation Site, CDFW may consider the Mitigation Site as compensatory habitat if it meets the other criteria listed in Conditions of Approval 9.2, 9.3, and 9.4.

Therefore, to meet compensatory habitat requirements of this ITP, the Permittee has the option to either: 1) provide for both the permanent protection and management of the

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

approximately 86 acres of Habitat Management (HM) lands at the Mitigation Site pursuant to Condition of Approval 9.2 below, and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below; OR 2) purchase 86 acres of Covered Species upland credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 9.1 below. One of the HM lands options outlined immediately above must be complete before starting Covered Activities, or within 36 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

9.1. Covered Species Credits. If the Permittee elects to purchase Covered Species credits to complete the whole of compensatory mitigation obligations, then Permittee shall purchase 86 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 36 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 36 months from issuance of this ITP if Security is provided.

OR

9.2. Habitat Management Lands Acquisition and Protection. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall:

9.2.1. **Fee Title.** Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.

9.2.2. **Conservation Easement.** If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the “doctrine of merger” could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.

- 9.2.3. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project’s impacts on Covered Species;
- 9.2.4. HM Lands Documentation. Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 9.2.5. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.
- 9.2.6. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&inline>) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.

- 9.2.7. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management.

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

- 9.3. Endowment Fund. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 9.2.6. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

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

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

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

Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).

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

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

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

9.3.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

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

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

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

9.3.4. Management of the Endowment. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

kind governing the holding, investment, management, and/or disbursement of the Endowment funds.

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

- 9.4. Reimburse CDFW.** Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.
- 10. Security:** The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:
- 10.1. Security Amount.** The Security shall be in the amount of **\$5,160,000.00**. This amount is based on cost estimates identified by CDFW for purchase of 86 Covered Species bank credits from a CDFW-approved conservation bank with an authorized service area that includes the Project.
- 10.2. Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline.** The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 10.4. Security Holder.** The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal.** Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.

10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

EITHER:

- Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of 86 Covered Species upland credits; and
- Timely submission of all required reports.

OR

- Written documentation of the acquisition of 86 acres of HM lands;
- Copies of all executed and recorded conservation easements;
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
- Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 36 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

IX. Amendment:

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

X. Stop-Work Order:

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, regardless of whether that species is a Covered Species

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

under this ITP. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 30 additional days.

If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

XI. Compliance with Other Laws:

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

XII. Notices:

The Permittee shall sign and return this ITP to CDFW. A manual or digital signature is acceptable, provided a digital signature complies with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned. Manual (wet) signatures on duplicate original paper copies shall be returned by the Permittee via registered first-class mail or overnight delivery to the following address:

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2020-020-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

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

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

and a copy to:

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

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

Renée Robison
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, CA 93710
(559) 580-3201
Renee.Robison@wildlife.ca.gov

XIII. Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to the Project overburden placement portion of this ITP because of prior environmental review of the Project by the lead agency, San Benito County. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Granite Rock Company Brigantino Overburden Project Environmental Impact Report (EIR; SCH No.: 1988062818) dated September 1992 certified by San Benito County on January 27, 1993 pursuant to CEQA (Pub. Resources Code, § 21000 et seq.). At the time the lead agency certified the EIR and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval. CDFW acting as a responsible agency (as defined in the CEQA Guidelines section 15381) prepared and approved CEQA Findings and an addendum to the Final EIR dated December 2022 with respect to the Project Mitigation Site portion described in this ITP to analyze potential impacts from the proposed mitigation and restoration activities at the Anzar Road property Mitigation Site. Mitigation measures described in the Final EIR and further considered in the December 2022 Addendum are conditions necessary for the issuance of this ITP.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's EIR and the Addendum for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

XIV. Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Granite Rock Company Brigantino Overburden Project Environmental Impact Report (EIR; SCH No.: 1988062818) certified by San Benito County on January 27, 1993 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and the 2022 Addendum to the EIR adopted by CDFW as responsible agency to analyze potential impacts from the proposed mitigation and restoration activities at the Anzar Road property Mitigation Site, the results of consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 86 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

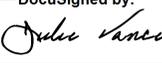
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project;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

XV. Attachments:

FIGURE 1	Project Overburden Site and Mitigation Site Overview
FIGURE 2	Project Overburden Site Access Routes/Staging Areas
FIGURE 3	Mitigation Site Access Routes/Staging Areas
FIGURE 4	Mitigation Site Restoration Activities
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Fieldwork Code of Practice
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

ON 12/13/2022

DocuSigned by:

 FA83F09FE08945A...
 Julie A. Vance, Regional Manager
 Central Region

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

ACKNOWLEDGMENT

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

By: DocuSigned by:
Aaron Johnston
366FABFC9EC44EA... _____ Date: 4/13/2023

Printed Name: Aaron Johnston Title: VP Government Affairs, Environmental and Quality

Incidental Take Permit
No. 2081-2020-020-04
GRANITEROCK

GRANITEROCK A.R. WILSON QUARRY PROJECT AT SOUTH CANYON

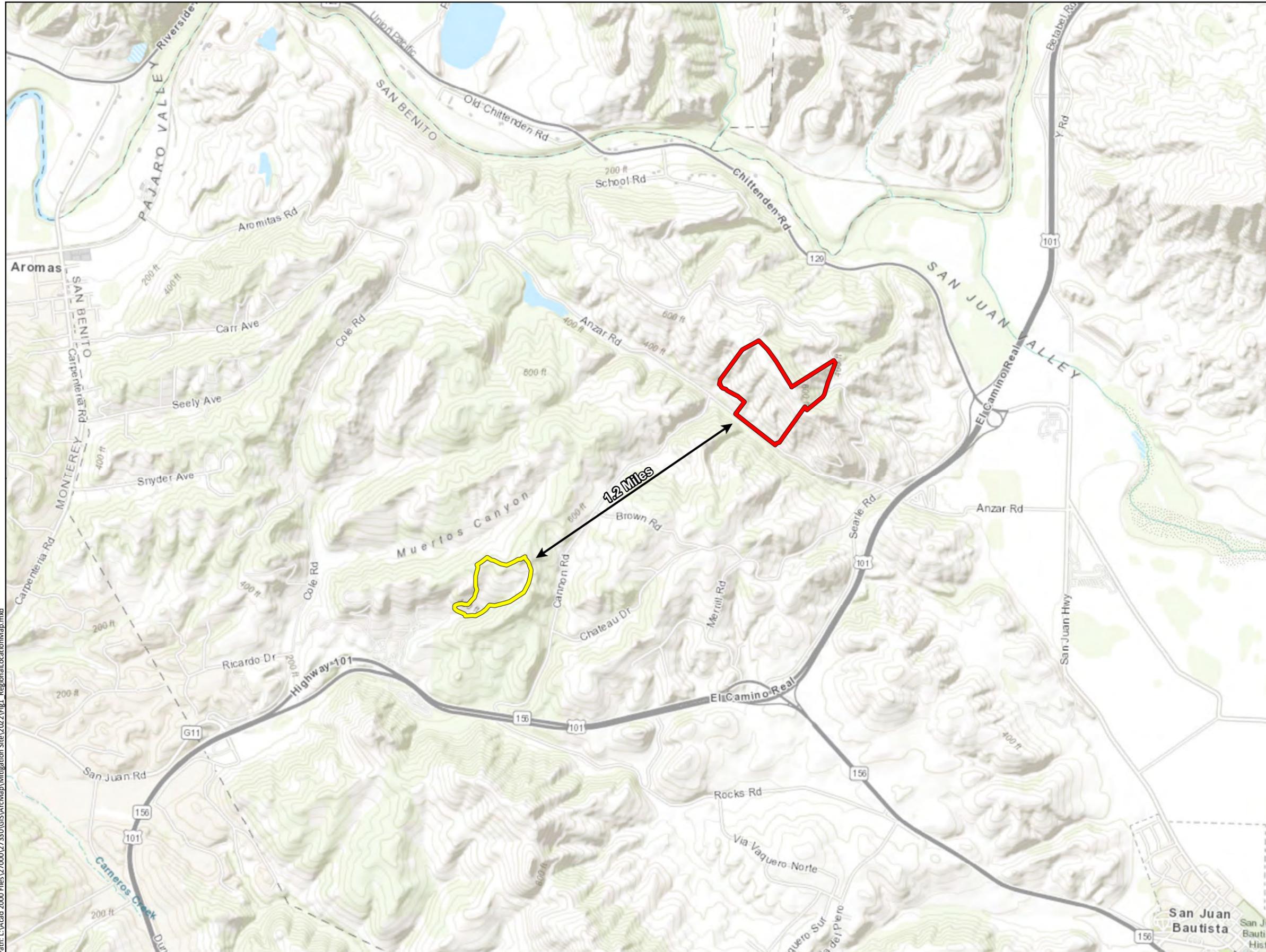
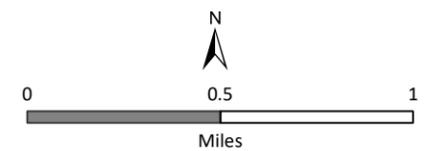


Figure 1.
Project Overburden Site
and Mitigation Site
Overview

Graniterock AR Wilson Quarry
 San Benito County, California

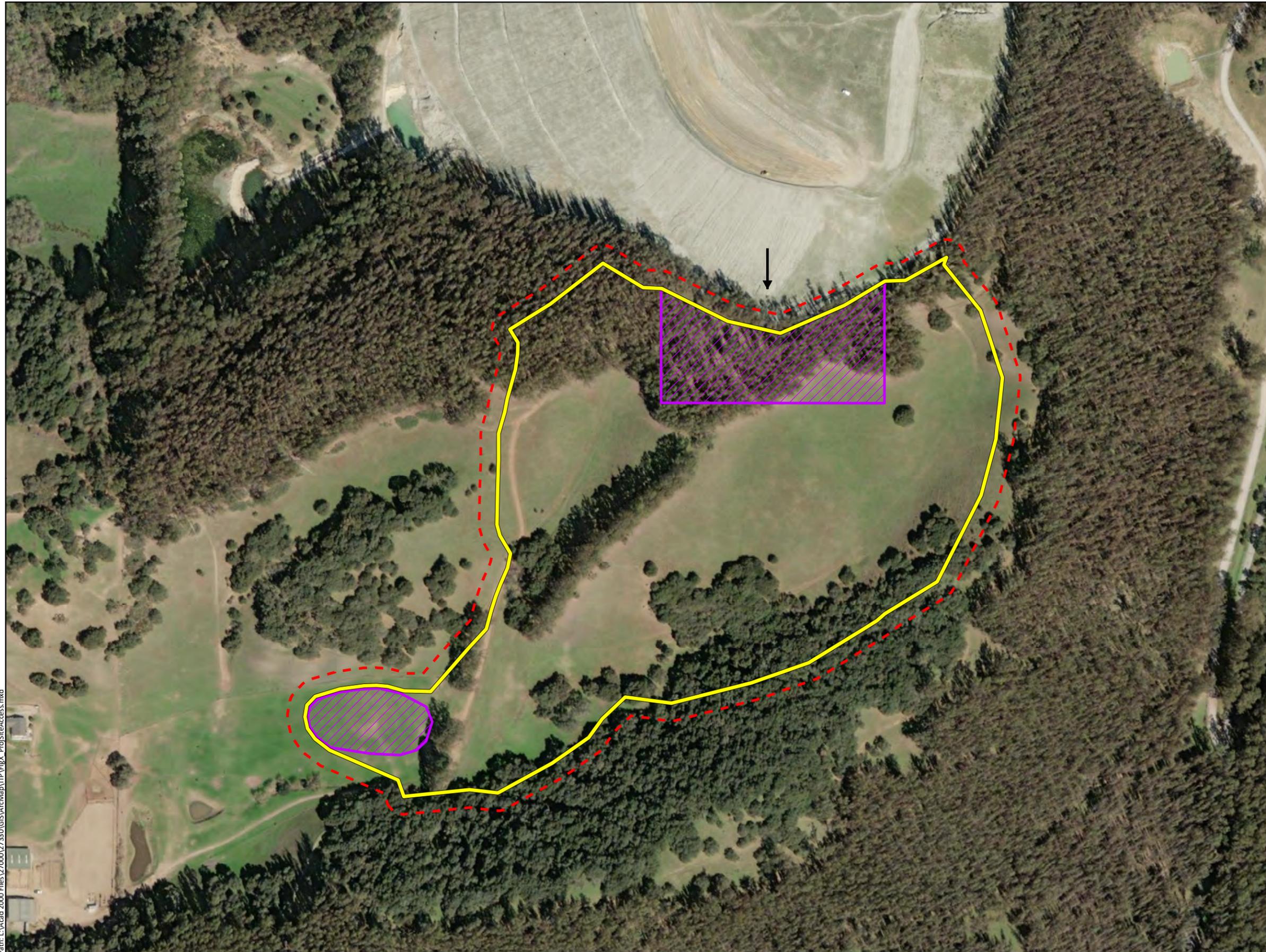
- Project Overburden Site: (36.87 ac.)
- Mitigation Site: (86.00 ac.)



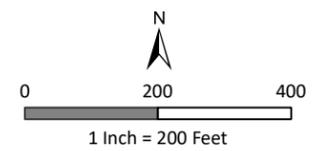
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Figure 2.
Project Overburden Site
Access Routes/Staging Areas

Graniterock AR Wilson Quarry
San Benito County, California



-  Project Overburden Site
-  Access via Existing Disturbed Quarry Footprint
-  Staging Area
-  Access/Staging 50ft. Buffer



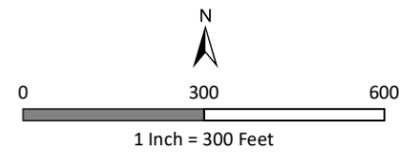
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Figure 3.
Mitigation Site Access
Routes/Staging Areas

Graniterock AR Wilson Quarry
 San Benito County, California

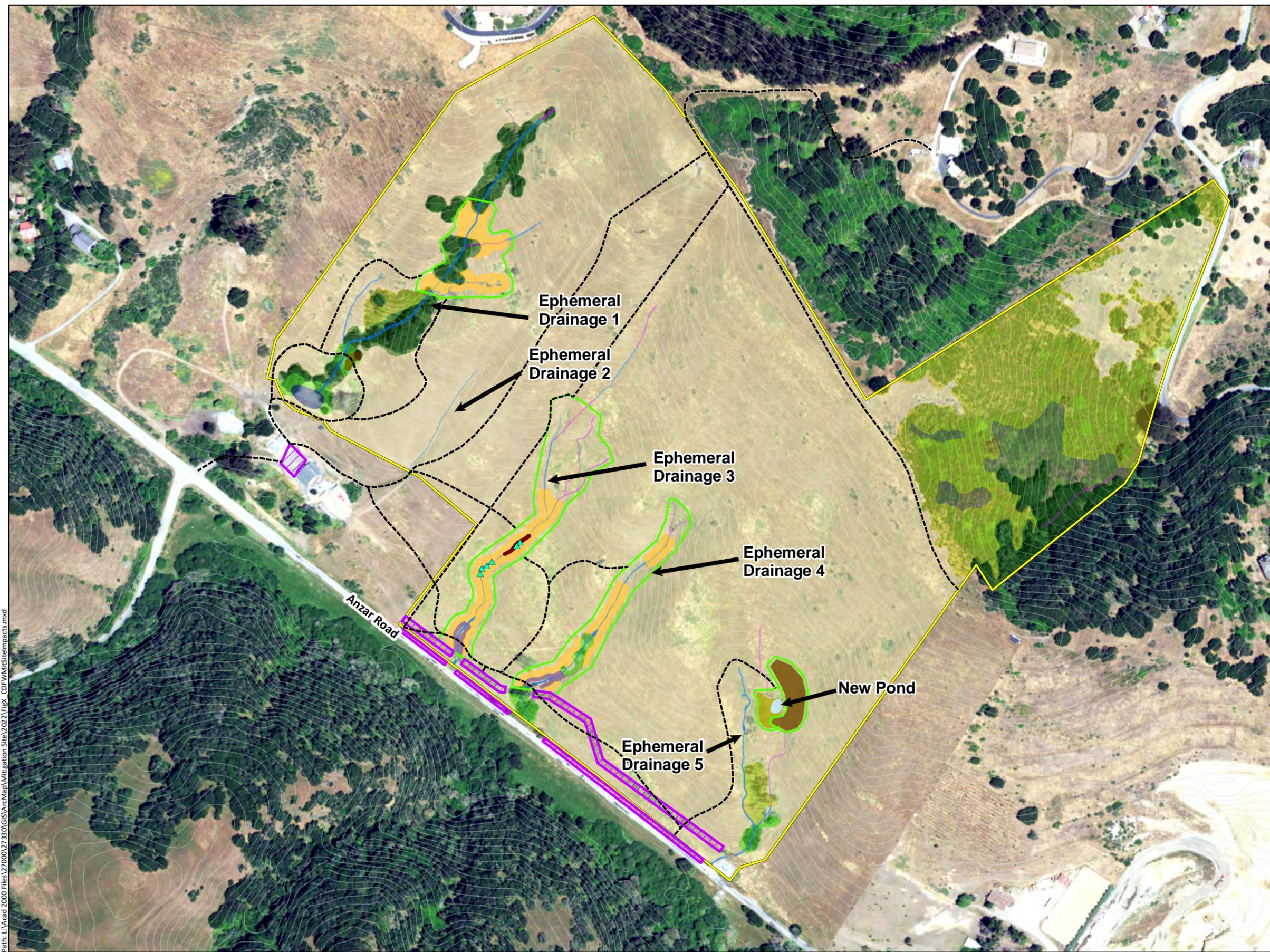
-  Mitigation Site
-  Primary Access Point
-  Access Route
-  Staging Area
-  Access/Staging 50ft. Buffer



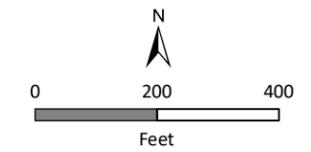
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Figure 4. Mitigation Site Restoration Activities

Graniterock AR Wilson Quarry
San Benito County, California



- Mitigation Site: (86.00 ac.)
 - Staging Area (To be Located in Upland Areas Only)
 - Equipment Access
 - Cattle Exclusion Fencing
 - Contour - 10 ft.
- Proposed Activity**
- Potential CTS Breeding Pond - New: (0.03 ac.)
 - Pond Related Grading: (0.11 ac.)
 - Slope Stabilization Planting: (0.31 ac.)
 - Debris Removal: (0.07 ac.)
 - Oak Planting Area: (1.63 ac.)
 - Willow Planting Area: (0.12 ac.)
 - ▲ Willow Trenches/Clusters: (Up to 0.03 ac)
- Preserved Habitats**
- Ephemeral Drainage
 - Presumed Surface Flow
 - Coast Live Oak Woodland
 - Coyote Brush Scrub
 - Non-native Grassland
 - Poison Oak Scrub
 - Potential CTS Breeding Pond - Existing
 - Seasonal Wetland
 - Willow Riparian



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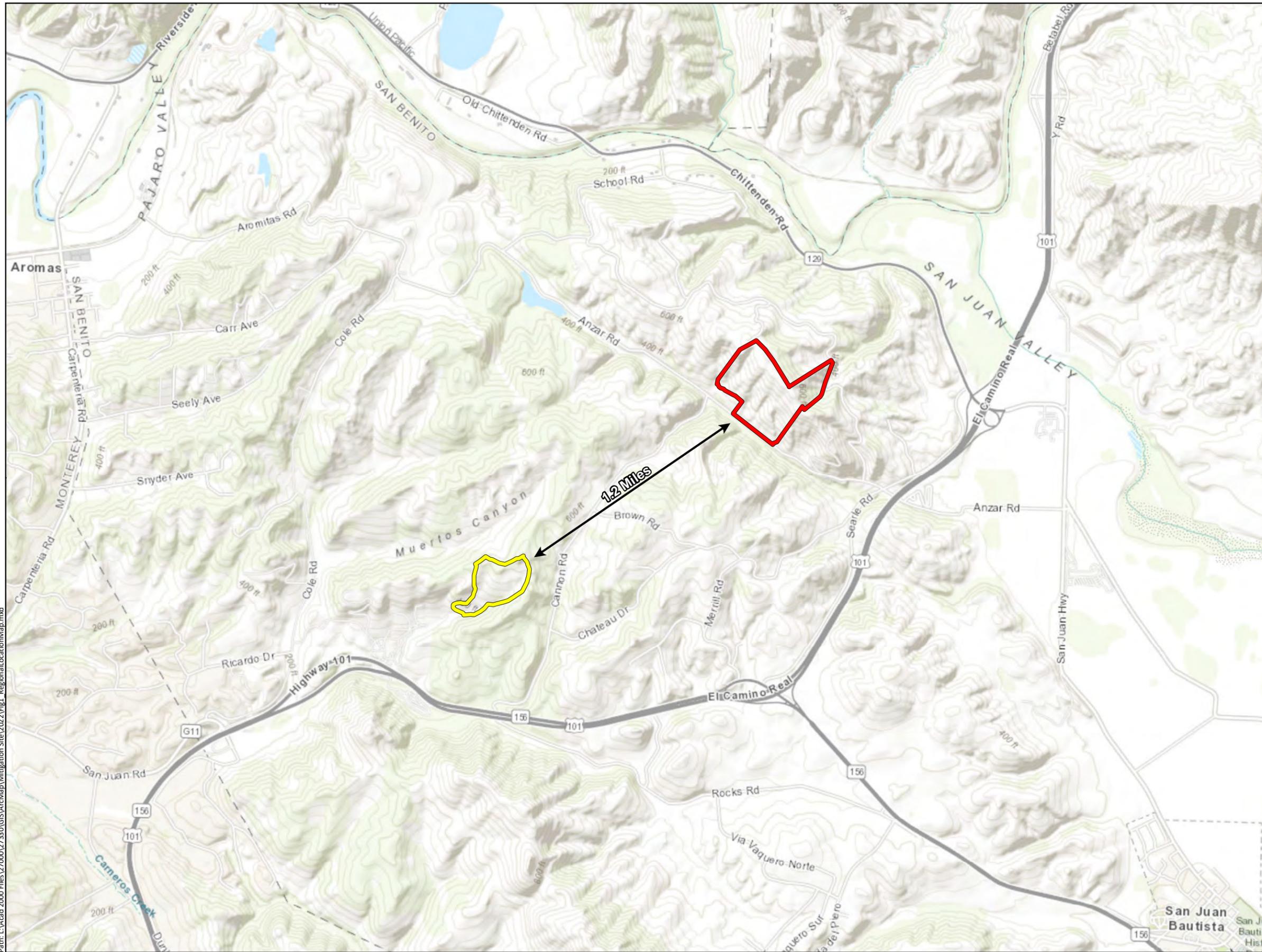
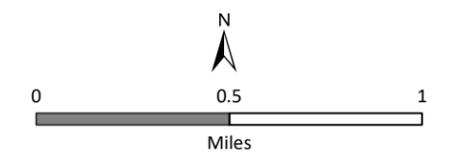


Figure 1.
Project Overburden Site
and Mitigation Site
Overview

Graniterock AR Wilson Quarry
San Benito County, California

-  Project Overburden Site: (36.87 ac.)
-  Mitigation Site: (86.00 ac.)



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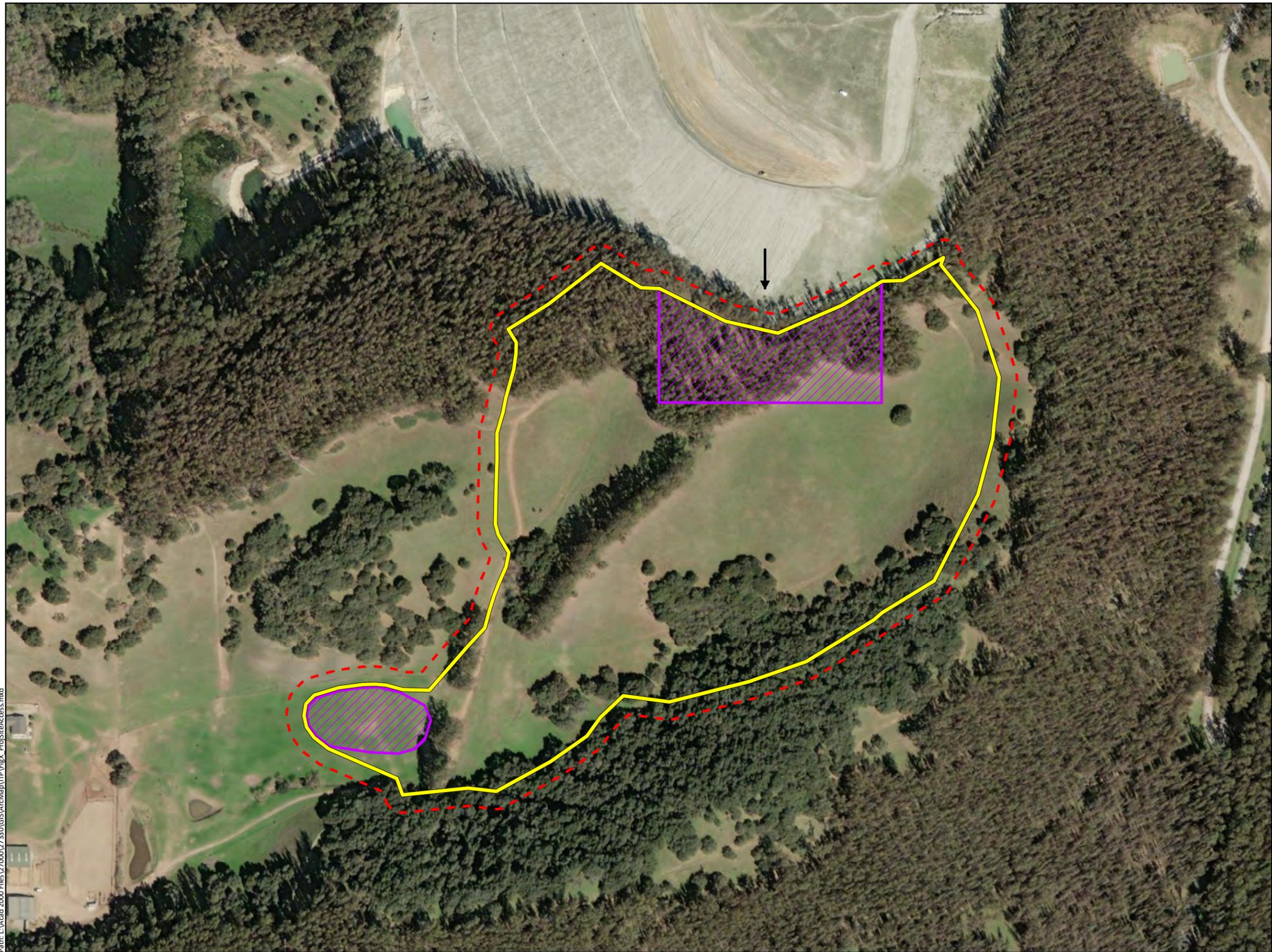
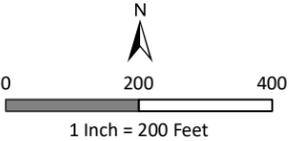


Figure 2.
Project Overburden Site
Access Routes/Staging Areas

Graniterock AR Wilson Quarry
San Benito County, California

-  Project Overburden Site
-  Access via Existing Disturbed Quarry Footprint
-  Staging Area
-  Access/Staging 50ft. Buffer



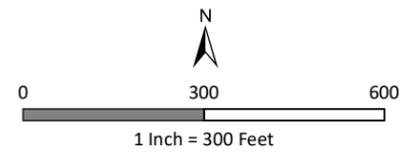
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Figure 3.
Mitigation Site Access
Routes/Staging Areas

Graniterock AR Wilson Quarry
 San Benito County, California

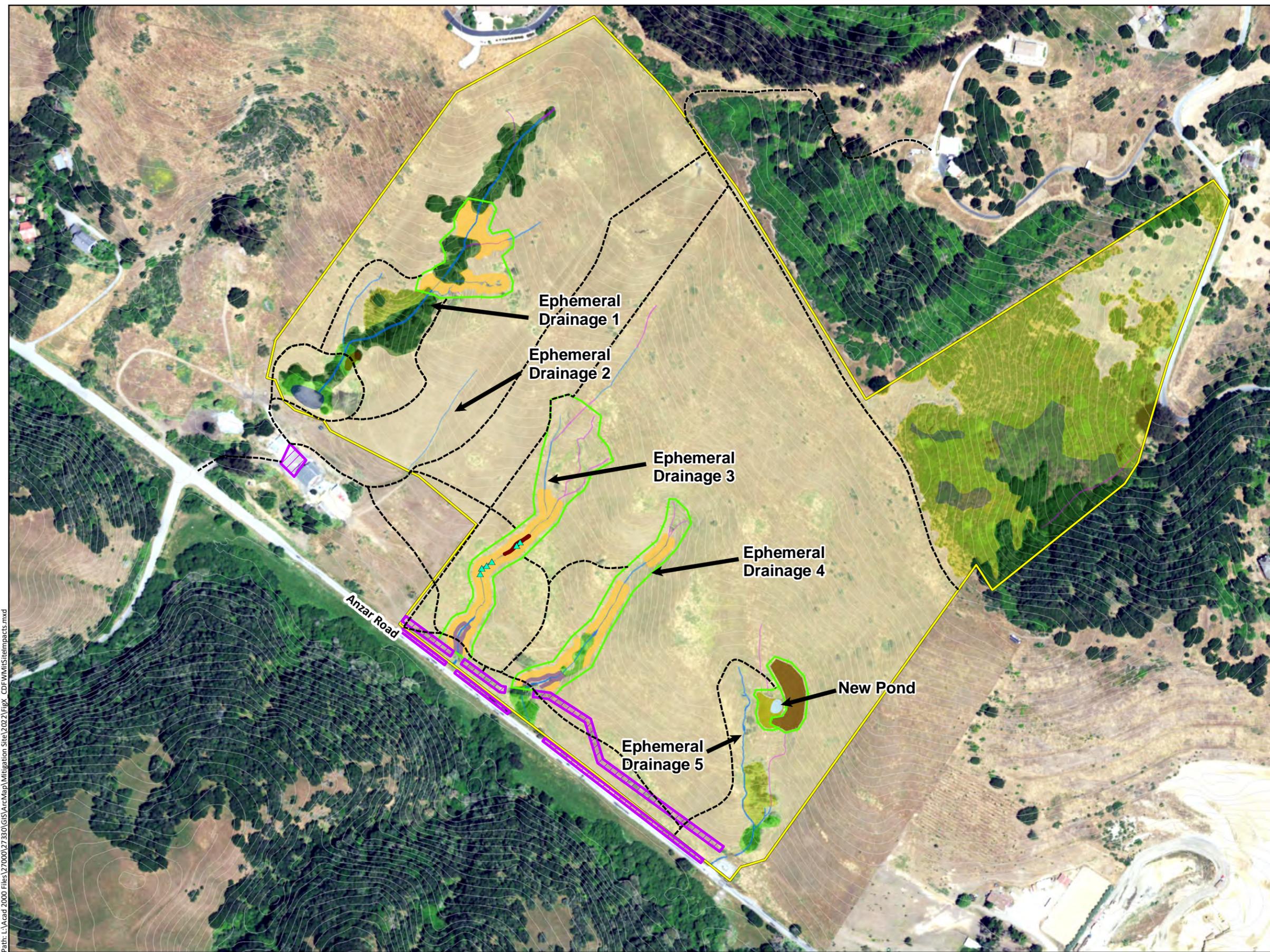
-  Mitigation Site
-  Primary Access Point
-  Access Route
-  Staging Area
-  Access/Staging 50ft. Buffer



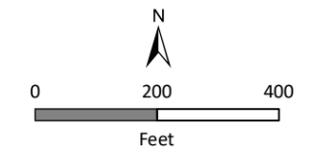
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Figure 4. Mitigation Site Restoration Activities

Graniterock AR Wilson Quarry
San Benito County, California



- Mitigation Site: (86.00 ac.)
 - Staging Area (To be Located in Upland Areas Only)
 - Equipment Access
 - Cattle Exclusion Fencing
 - Contour - 10 ft.
- Proposed Activity**
- Potential CTS Breeding Pond - New: (0.03 ac.)
 - Pond Related Grading: (0.11 ac.)
 - Slope Stabilization Planting: (0.31 ac.)
 - Debris Removal: (0.07 ac.)
 - Oak Planting Area: (1.63 ac.)
 - Willow Planting Area: (0.12 ac.)
 - ▲ Willow Trenches/Clusters: (Up to 0.03 ac)
- Preserved Habitats**
- Ephemeral Drainage
 - Presumed Surface Flow
 - Coast Live Oak Woodland
 - Coyote Brush Scrub
 - Non-native Grassland
 - Poison Oak Scrub
 - Potential CTS Breeding Pond - Existing
 - Seasonal Wetland
 - Willow Riparian



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Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2020-020-04

PERMITTEE: Graniterock

PROJECT: Graniterock A.R. Wilson Quarry Project at South Canyon

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	<u>Designated Representative</u> . Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<u>Designated Biologist(s) and/or Designated Monitor(s)</u> . Permittee shall submit to CDFW in writing the name, qualifications, business address, contact information, and references with contact information of Designated Biologist(s) and Designated Monitor(s) using the Biologist Resume Example (Attachment 2) or another format containing the same information. This information shall be submitted for CDFW review and approval at least 30 days before starting Covered Activities. The Designated Biologist(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of the Covered Species and to minimize disturbance of Covered Species' habitat. The Designated Monitor(s) shall assist the Designated Biologist(s) in compliance monitoring under direction/supervision of the Designated Biologist(s). Designated Monitor responsibilities will be restricted to a specific set of Conditions of Approval, specified by the Permittee or Designated Representative at the time their qualifications are submitted for review. Permittee shall ensure that the Designated Biologist(s) and Designated Monitor(s) are knowledgeable and experienced in the Covered Species' biology, natural history, collecting and handling, as well as excavating burrows/crevices to minimize mortality and monitoring construction activities following the Conditions of Approval of an ITP for the Covered Species. The Designated Biologist(s) and Designated Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Designated Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Designated Monitor(s) must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	<u>Education Program</u> . Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before they can perform any work within the Project Area. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations, and Project-specific protective measures described in the ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for all non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
4	<u>Trash Abatement</u> . Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	<u>Dust Control</u> . Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	<u>Delineation of the Work Areas at the Mitigation Site</u> . Before starting Covered Activities within the Mitigation Site, Permittee shall clearly delineate the boundaries of each Work Site where restoration activities will occur to distinguish it from the remaining portion of the Mitigation Site where no activities will occur. The boundaries of each Work Area shall be delineated with stakes and/or flags and shall be maintained with signage for the duration of Covered Activities at the Mitigation Site.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	<u>Delineation of Property Boundaries</u> . Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	<u>Delineation of Habitat</u> . Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat. Permittee shall maintain all signs, stakes, flags, rope, cord, and fencing until the completion of Covered Activities in that area, at which time they should be removed.	ITP Condition # 6.11	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
10	<u>Notification Before Commencement</u> . The Designated Representative shall notify CDFW and provide documentation of compliance with all pre-Project Conditions of Approval at least 14 calendar days before starting Covered Activities within the Project Overburden Site and the Mitigation Site.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
11	<u>Covered Species Mortality Reduction and Relocation Plan</u> . The Designated Biologist shall prepare a Covered Species Mortality Reduction and Relocation Plan and submit it to CDFW for review and approval a minimum of 30 days prior to the beginning of Covered Activities. The Covered Species Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion and map of the portion of the Project Area which represents potential upland habitat; identification of the area within 1.3 miles of known or potential breeding habitat for Covered Species; detailed survey, capture, handling, and relocation methods; identification of relocation areas; and identification of a wildlife rehabilitation center or veterinary facility capable of treating injured animals. Covered Activities may not proceed until the Covered Species Mortality Reduction and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling the Covered Species unless specifically approved in writing by CDFW and under the direct supervision of the Designated Biologist(s). Any proposed changes to the CDFW-approved Covered Species Mortality Reduction and Relocation Plan shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any proposed Covered Species Mortality Reduction and Relocation Plan modifications.	ITP Condition # 7.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
12	<u>Mitigation Site Restoration Design Plan</u> . At least 30 days before starting Covered Activities within the Mitigation Site, the Permittee shall provide CDFW with the final detailed Restoration Design Plan for review and approval. The Plan shall include but not be limited to detailed descriptions of the activities within each ephemeral drainage, order of operations, dimensions, areas, volumes, type and size of materials, maps, and Geographic Information Systems (GIS) data files for all initial restoration activities described in Project Description Section of the ITP, i.e., pond creation, berm construction, grading cut/fill, debris removal, willow trench and willow cluster placement, cattle exclusion fencing (including gate design and locations), oak and willow riparian plantings, application of native seed mix, recontouring, rock placement, placement of erosion control fabric, and fiber roll installation.	ITP Condition # 7.4	Before commencing ground- or vegetation-disturbing activities	Permittee	
13	<u>Project Overburden Drainage Systems Design Plan</u> . Before starting Covered Activities within the Project Overburden Site, Permittee shall provide CDFW with the final detailed Drainage Systems Design Plan. The Plan shall include, but not be limited to, the dimensions, areas, volumes, materials, and locations of all drainage channels and the retention basin. Please describe the methods for removing and/or filling in the retention basin and all drainage system features after overburden placement is complete during reclamation and prior to revegetation.	ITP Condition # 7.5	Before commencing ground- or vegetation-disturbing activities	Permittee	
14	<u>Geographic Information Systems Data Files</u> . Before starting Covered Activities, the Permittee shall provide CDFW with separate Geographic Information Systems (GIS) data files for the temporary and permanent habitat impact areas authorized under the ITP for the Covered Species for the Project Overburden Site and the Mitigation Site. If habitat for a Covered Species will be both temporarily and permanently impacted, the Permittee shall provide one set of GIS data files for each impact type. The Permittee shall provide any additional GIS data files for the Project or related Covered Species features within 30 days of CDFW's request. All GIS data files shall be provided in a format acceptable to CDFW.	ITP Condition # 7.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	<u>Record of Covered Species Relocation.</u> The Designated Biologist shall maintain a record of Covered Species handled and all documented observations of Covered Species. This information shall include for each animal: (1) date, time, and location (Global Positioning System (GPS) coordinates and maps) and capture and/or observation as well as release, if applicable; (2) the name of the party that identified the Covered Species; (3) circumstances of the incident; (3) the general condition and health, noting all visible conditions including gait and behavior, ectoparasites, injuries, etc.; (4) any diagnostic markings, sex, age (juvenile or adult); (5) actions undertaken; (6) habitat description; and (7) ambient temperature when handled and released or observed. The Designated Biologist shall also submit this information to CDFW's California Natural Diversity Database (CNDDDB) as per Condition of Approval 7.11 below. The Designated Biologist shall prepare a Relocation Summary and include it in the Quarterly Compliance and Annual Status Reports described in Conditions of Approval 7.9 and 7.10, respectively, below.	ITP Condition # 7.8	Before commencing ground- or vegetation-disturbing activities / Entire Project	Designated Biologist	
16	<u>Pre-Activity Clearance Survey and Reporting.</u> No more than 14 calendar days prior to initiating Covered Activities within the Project Overburden Site and within each Work Area at the Mitigation Site, the Designated Biologist shall survey the Project Area for individuals of the Covered Species. These surveys shall provide 100 percent visual coverage (including burrow and crevice openings) at the Project Area as well as a 50-foot buffer zone around the Project Area. If individuals of the Covered Species are found, the Designated Biologists(s) shall relocate them in accordance with the CDFW-approved Covered Species Mortality Reduction and Relocation Plan (Condition of Approval 7.3). The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities.	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities	Designated Biologist	
17	<u>Flag Burrows/Crevices.</u> During Pre-Activity Clearance Surveys (Condition of Approval 8.1), the Designated Biologist shall flag all animal burrows and crevices suitable for Covered Species occupancy within the Project Overburden Site and within each Work Area at the Mitigation Site including a 50-foot buffer outside those areas. An avoidance buffer of 50 feet or greater around animal burrows/crevices shall be maintained regardless of if the burrow/crevice is in the Project Area or solely within the Project Area's 50-foot buffer zone. Flagged burrows/crevices which occur within 600 meters of known or potential breeding habitat and which cannot be avoided by at least 50 feet shall be fully excavated in accordance with Condition of Approval 8.3 below.	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities	Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
18	<p><u>Burrow/Crevice Excavation</u>. Prior to initiating Covered Activities within the Project Overburden Site, animal burrows and crevices identified during the Pre-Activity Clearance Surveys (Condition of Approval 8.1) and flagged (Condition of Approval 8.2) within 600 meters of known or potential Covered Species breeding habitat as identified in the Covered Species Mortality Reduction and Relocation Plan (Condition of Approval 7.3), and which cannot be fully avoided by at least 50 feet, shall be fully excavated. Applicable burrows/crevices may be excavated by hand or in a manner otherwise approved by CDFW in accordance with the CDFW approved Covered Species Mortality Reduction and Relocation Plan (Condition of Approval 7.3). Burrow/crevice excavation shall occur under the direct supervision of the Designated Biologist(s).</p> <p>Those animal burrows and crevices identified outside of, but within 50 feet of, shall be similarly excavated if they occur within 50 feet of ground disturbance within the Project Overburden Site. This excavation requirement applies regardless of whether the burrow/crevice is located within the Project Overburden Site or within 50 feet of the Project Overburden Site, except for burrows/crevices outside of the Permittee's access and/or control, which do not need to be excavated. The Designated Biologist(s) shall relocate any live CTS discovered during burrow/crevice excavation in accordance with the CTS Mortality Reduction and Relocation Plan required in Condition of Approval 7.3 above. Excavation shall occur no more than 14 days after the completion of the Pre-Activity Clearance Surveys as described in Condition of Approval 8.1.</p>	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
19	<p><u>Exclusion Fencing</u>. Prior to initiation of Covered Activities and following surveying, flagging, and excavating burrows/crevices in accordance with Conditions of Approval 8.1, 8.2, and 8.3 above, Permittee shall install long-term exclusion fencing around the perimeter of the Project Overburden Site to prevent Covered Species from migrating into the cleared Project Overburden Site.</p> <p>Permittee shall install temporary, untrenched exclusion fencing around the Staging Areas for the Project Overburden Site following surveying, flagging, and excavating burrows/crevices in accordance with Conditions of Approval 8.1, 8.2, and 8.3 above while installing the long-term exclusion fencing. Vehicles, equipment and materials shall not enter or be placed within the Staging Areas until temporary exclusion fencing has been installed around each Staging Area. Vehicles, equipment, and materials shall not enter or be placed within all other areas of the Project Overburden Site until the long-term wildlife exclusion fencing has been installed around the entire perimeter. Once long-term exclusion fencing has been installed, Permittee shall remove the temporary exclusion fencing.</p> <p>Permittee shall submit an Exclusion Fencing Plan to CDFW for review and approval a minimum of 30 days prior to commencing Covered Activities. The Exclusion Fencing Plan shall include fencing materials, detailed design (including maps) and installation methods, gate design and location, and inspection, maintenance, repair, and replacement methods and intervals. The Exclusion Fencing Plan shall include the required information for both the long-term exclusion fencing and the temporary Staging Area fencing. Installation of exclusion fencing and initiation of Covered Activities shall not proceed until the Exclusion Fencing Plan has been approved in writing by CDFW.</p>	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
20	<p><u>Exclusion Fence Installation.</u> The exclusion fence shall be installed under the direct supervision of the Designated Biologist and begin no later than 48 hours after the burrow/crevice excavation and relocation activities per Condition of Approval 8.3 is complete.</p> <p>The Permittee shall also avoid animal burrows and crevices to the maximum extent possible during the installation of the exclusion fence. When animal burrows and crevices that are within 600 meters of known or potential Covered Species breeding habitat cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be excavated as described in Condition of Approval 8.3, above, prior to commencing fence installation. Permittee shall remove exclusion fencing immediately upon completion of Covered Activities in the fenced Project Area.</p>	ITP Condition # 8.5	Before commencing ground- or vegetation-disturbing activities	Permittee	
21	<p><u>Dry Season Work.</u> Within the Mitigation Site, Permittee shall confine ground-disturbing activities to the dry season (generally May 1 to October 31) and shall complete activities prior to the onset of winter rains. Ground-disturbing activities conducted during the dry season shall not occur until on-site ponds are dry, unless surveys are conducted to demonstrate the absence of Covered Species eggs or larvae.</p>	ITP Condition # 8.7	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
22	<p><u>Habitat Management Land Acquisition:</u> CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.</p> <p>The Permittee proposes to permanently protect and perpetually manage the approximately 86-acre Mitigation Site, included as an element of this Project, to serve as compensatory habitat for overburden placement and Covered Species exclusion activities within the Project Overburden Site. However, to date Covered Species breeding has not been documented within the Mitigation Site's existing on-site pond. For this reason, as an element of this Project, the Permittee seeks to construct a pond within the Mitigation Site to serve as Covered Species breeding habitat. Because breeding has not been observed and documented at the Mitigation Site, CDFW has not provided conceptual approval of its use as compensatory habitat. If successful breeding of the Covered Species is documented on the Mitigation Site, CDFW may consider the Mitigation Site as compensatory habitat if it meets the other criteria listed in Conditions of Approval 9.2, 9.3, and 9.4.</p> <p>Therefore, to meet compensatory habitat requirements of the ITP, the Permittee has the option to either: 1) provide for both the permanent protection and management of the approximately 86 acres of Habitat Management (HM) lands at the Mitigation Site pursuant to Condition of Approval 9.2 below, and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below; OR 2) purchase 86 acres of Covered Species upland credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 9.1 below. One of the HM lands options outlined immediately above must be complete before starting Covered Activities, or within 36 months of the effective date of the ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	<p><u>Covered Species Credits.</u> If the Permittee elects to purchase Covered Species credits to complete the whole of compensatory mitigation obligations, then Permittee shall purchase 86 acres of Covered Species credits from a CDFW approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 36 months from the issuance of the ITP if Security is provided pursuant to Condition of Approval 10 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 36 months from issuance of the ITP if Security is provided.</p> <p>OR</p>	ITP Condition #9.1	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
24	<p><u>Habitat Management Lands Acquisition and Protection.</u> If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall:</p>	ITP Condition #9.2	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
25	<p><u>Fee Title.</u> Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.</p>	ITP Condition #9.2.1	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
26	<p><u>Conservation Easement.</u> If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.</p>	ITP Condition #9.2.2	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
27	<u>HM Lands Approval</u> . Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;	ITP Condition #9.2.3	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
28	<u>HM Lands Documentation</u> . Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;	ITP Condition #9.2.4	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
29	<u>Land Manager</u> . Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.	ITP Condition #9.2.5	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
30	<u>Start-up Activities</u> . Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&inline) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.	ITP Condition #9.2.6	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	<p><u>Interim Management (Initial and Capital)</u>. Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management.</p> <p>Permittee shall either (1) provide Security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.</p>	ITP Condition #9.2.7	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
32	<p><u>Endowment Fund</u>. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the ITP, the conservation easement, and the management plan required by Condition of Approval 9.2.6. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Conditions #9.3	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
33	<p><u>Identify an Endowment Manager.</u> The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.</p> <p>Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).</p> <p>Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).</p>	ITP Conditions #9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
34	<p><u>Calculate the Endowment Funds Deposit.</u> After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record [PAR]) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.</p>	ITP Conditions #9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
35	<p><u>Capitalization Rate and Fees.</u> Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.</p>	ITP Conditions #9.3.2.1	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
36	<p><u>Endowment Buffers/Assumptions.</u> Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <ul style="list-style-type: none"> • <u>10 Percent Contingency.</u> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. • <u>Three Years Delayed Spending.</u> The endowment shall be established assuming spending will not occur for the first three years after full funding. • <u>Non-annualized Expenses.</u> For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW. 	ITP Conditions #9.3.2.2	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
37	<p><u>Transfer Long-term Endowment Funds.</u> Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.</p>	ITP Conditions #9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
38	<p><u>Management of the Endowment.</u> The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.</p> <p>Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.</p>	ITP Conditions #9.3.4	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	
39	<p><u>Reimburse CDFW.</u> Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of the ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.</p>	ITP Conditions #9.4	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
40	<p>Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <ul style="list-style-type: none"> a) Security Amount. The Security shall be in the amount of \$5,160,000.00. This amount is based on cost estimates identified by CDFW for purchase of 86 Covered Species bank credits from a CDFW-approved conservation bank with an authorized service area that includes the Project. b) Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. c) Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first. d) Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW. e) Security Transmittal. Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other. f) Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of the ITP. g) Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by: <p>EITHER:</p> <ul style="list-style-type: none"> • Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of 86 Covered Species upland credits; and • Timely submission of all required reports. <p>OR</p> <ul style="list-style-type: none"> • Written documentation of the acquisition of 86 acres of HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 36 months from the effective date of the ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 36 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
41	<u>Designated Biologist/Designated Monitor Authority.</u> To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist and/or Designated Monitor shall have authority to immediately stop any activity that does not comply with the ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Overburden Site and Mitigation Site and otherwise facilitate the Designated Biologist and/or Designated Monitor in the performance of his/her duties. If the Designated Biologist and/or Designated Monitor is unable to comply with the ITP, then the Designated Biologist and/or Designated Monitor shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of the ITP.	ITP Condition # 6.3	Entire Project	Designated Biologist/ Permittee	
42	<u>Construction Monitoring Documentation.</u> The Designated Biologist(s) and Designated Monitor(s) shall maintain construction-monitoring documentation onsite in either hard copy or digital format throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at both Project sites upon request by CDFW.	ITP Condition # 6.5	Entire Project	Designated Biologist/ Permittee	
43	<u>Compliance Monitoring.</u> The Designated Biologist shall conduct daily compliance inspections and be on site for the duration of the day while wildlife exclusion fencing is installed and until clearing, grubbing, and grading are completed at the Project Overburden Site. The Designated Biologist shall be on site for the duration of the day and conduct at least daily compliance inspections at the Mitigation Site until Covered Activities are completed. The Designated Biologist shall conduct compliance inspections a minimum of weekly during periods of inactivity and after wildlife exclusion fencing is installed and clearing, grubbing, and grading are completed. The Designated Biologist shall conduct compliance inspections to: <ol style="list-style-type: none"> (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. <p>The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP.</p>	ITP Condition # 7.7	Entire Project	Designated Biologist/ Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
44	<u>Notification of Non-compliance.</u> The Designated Representative or the Designated Biologist shall immediately notify CDFW via email if the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative or the Designated Biologist shall follow notification with a written report to CDFW within 24 hours describing, in detail, any non-compliance with the ITP and suggested measures to remedy the situation.	ITP Condition # 7.2	Entire Project	Designated Biologist/ Permittee	
45	<u>Quarterly Compliance Report.</u> The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.7 and 7.8 into a Quarterly Compliance Report and submit it to CDFW along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall also include an accounting of the number of acres that have been permanently and temporarily disturbed by the Project within each Work Area, both for the prior quarter, and the total since ITP issuance, if applicable; the number of acres of habitat disturbance anticipated to occur in each Work Area during the coming quarter, if applicable; a summary of all pre-activity surveys and compliance monitoring conducted during the previous quarter; and the activities authorized under the Covered Activities which occurred during the previous quarter. Quarterly Compliance Reports shall be due by January 15, April 15, July 15, and October 15 via email to CDFW's Regional Representative, Regional CESA Program, and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Representative is Renee Robison (Renee.Robison@wildlife.ca.gov), Regional CESA Program email is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.9	Entire Project	Designated Biologist/ Permittee	
46	<u>Annual Status Report.</u> Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.9; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in this MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; and (6) information about other Project impacts on the Covered Species. ASRs shall be submitted to CDFW following the directions provided in Condition of Approval 7.9 above.	ITP Condition # 7.10	Entire Project	Permittee	
47	<u>CNDDB Observations.</u> The Designated Biologist shall submit all observations of Covered Species to CNDDB within 30 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.11	Entire Project	Designated Biologist/ Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
48	<u>Notification of Take or Injury.</u> Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project Area. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005 and by email to the CDFW Regional Representative. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, an explanation as to cause of take or injury, photograph(s), if possible, and any other pertinent information.	ITP Condition # 7.14	Entire Project	Designated Biologist/ Permittee	
49	<u>Erosion Control Materials.</u> Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat. Permittee shall deploy erosion control fabric/mats, blankets, and/or fiber rolls consisting of only natural-fiber, biodegradable materials.	ITP Condition # 6.8	Entire Project	Permittee	
50	<u>Project Access.</u> Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing roads within the Project Overburden Site. Permittee shall ensure that vehicle speeds do not exceed 10 miles per hour to avoid Covered Species on or traversing identified routes within the Mitigation Site. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.12	Entire Project	Permittee	
51	<u>Staging Areas.</u> Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.12 of the ITP.	ITP Condition # 6.13	Entire Project	Permittee	
52	<u>Hazardous Waste.</u> Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 6.14	Entire Project	Permittee	
53	<u>Fieldwork Code of Practice.</u> To ensure that disease is not conveyed between Work Areas by the Designated Biologist(s) or Designated Monitors(s), the Fieldwork Code of Practice developed by the Declining Amphibian Populations Task Force (see Attachment 3) shall be followed at all times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 8.6	Entire Project	Designated Biologist/ Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
54	Rain Forecast. The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. During rainfall events and/or when a 50 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas within the Mitigation Site until the rainfall ceases and a zero percent chance of rain is forecast and within the Project Overburden Site where initial ground disturbance (vegetation removal, grading, grubbing, and excavation) has yet to occur until the rainfall ceases and a zero percent chance of rain is forecast. Covered Activities may continue within the Project Overburden Site if this area has already been cleared of Covered Species and is surrounded by exclusion fence that has been properly maintained and is in good repair, in accordance with the Project's CDFW-approved Exclusion Fencing Plan.	ITP Condition # 8.8	Entire Project	Designated Biologist/ Permittee	
55	Soil and Materials Stockpiles. Permittee shall ensure that soil stockpiles are placed where soil will not pass into the potential Covered Species breeding habitat, or into any other "Waters of the State," in accordance with Fish and Game Code section 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall stockpile and stage all materials and equipment in a manner that discourages Covered Species' use. In all locations, Permittee shall not place bundled or loose materials directly on the ground. These materials shall be elevated to discourage use by Covered Species. Permittee shall not place materials outside of exclusion fencing.	ITP Condition # 8.9	Entire Project	Permittee	
56	Open Excavations. Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Work Area and/or Project Area at the beginning, middle, and end of each day (including weekends and any other non-work days) for trapped Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the worker(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. Worker(s) shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded, if possible, before Covered Activities are allowed to continue, or the Designated Biologist(s) may capture and relocate the Covered Species as per the Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.3 above.	ITP Condition # 8.10	Entire Project	Designated Biologist/ Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
57	<u>Vehicle and Equipment Inspection.</u> Within the Project Area, workers shall inspect under vehicles and equipment for Covered Species before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist(s) and wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move the Covered Species out of harm's way outside of the Project Overburden Site in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.3. If a Covered Species is found within the Mitigation Site, the Designated Biologist(s) may move the Covered Species to an area where Covered Activities are not planned outside of the Work Areas, and in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.3.	ITP Condition # 8.11	Entire Project	Permittee	
58	<u>Pipes and other Structures Entrapment Prevention.</u> Permittee shall ensure that all pipes, hoses, conduit, culverts, or similar materials stockpiled or installed in the Project Area are capped or otherwise enclosed at the ends to prevent entry by Covered Species. Workers shall thoroughly inspect all construction pipe, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the Covered Species before the object is subsequently moved, buried, or capped. If an individual of the Covered Species is discovered inside a pipe, culvert, or similar structure during inspection, the worker shall notify the Designated Biologist(s) and wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move Covered Species out of harm's way outside of the Project Overburden Site in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.3. If a Covered Species is found within the Mitigation Site, the Designated Biologist(s) may move the Covered Species to an area where Covered Activities are not planned outside of the Work Areas, and in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.3.	ITP Condition # 8.12	Entire Project	Permittee	
59	<u>Covered Species Observations.</u> During all Covered Activities within the Project Area, all workers shall inform the Designated Biologist(s) if a Covered Species is observed within or near the Project Area. All work in the vicinity of the observed Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Project Area of its own accord or the Designated Biologist(s) relocates the Covered Species following the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.3 above.	ITP Condition # 8.13	Entire Project	Permittee	
60	<u>Covered Species Injury.</u> If a Covered Species is injured as a result of Project related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.14. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 8.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
61	<u>Pesticide Use.</u> Permittee shall ensure that all pesticide use (mixing, application, and clean-up) is done by a licensed or certified applicator in accordance with all applicable state, federal, and local regulations. Permittee shall only apply pesticide sprays via ground application when wind speed measures less than 3 miles per hour. Permittee shall ensure that great care is taken to avoid pesticide drift outside the boundaries of the Project Overburden Site and/or Mitigation Site Work Areas. Permittee shall ensure that any pesticide used where there is the possibility that the pesticide could come into direct contact with water is approved for use in an aquatic environment.	ITP Condition # 8.15	Entire Project	Permittee	
62	<u>CDFW Access.</u> Permittee shall provide CDFW staff with reasonable access to the Project Area and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 6.15	Entire Project	Permittee	
63	<u>Project Overburden Site Reclamation and Revegetation Plan.</u> At least 30 days prior to implementing reclamation and revegetation activities at the Project Overburden Site, Permittee shall submit a Reclamation and Revegetation Plan to CDFW for review and approval to facilitate reclamation and revegetation of the 36.87 acres of disturbance within the Project Overburden Site. Permittee shall restore the soil and vegetation to a condition conducive for Covered Species recolonization. Permittee shall ensure restoration is successfully implemented by the contractor. At a minimum, the Plan shall include the following information: (1) a map that identifies the location of the areas to be revegetated; (2) a description of the existing physical and biological conditions of the areas prior to commencement of any restoration activities; (3) identification of the final soil compaction rate that must be less than that of representative adjoining Covered Species habitat to a depth of no less than three feet; (4) description of how the native topsoil from the Work Areas and/or seed will be applied over the area to establish suitable vegetation for Covered Species; (5) a California native plant palette and seed sources; (6) a planting plan, including seed application method; (7) procedures to ensure that nonnative plants are not introduced or allowed to sustain within the revegetation areas and an annual nonnative removal plan; (8) avoidance and minimization measures; (9) monitoring and maintenance measures and a timeline when these will occur; (10) proposed success criteria and contingency measures if the first application is unsuccessful to ensure upland habitat suitability for Covered Species; (11) a funding source to cover the total costs of restoration; (12) indicate the time of year seeding will occur to ensure adequate growth without supplemental watering or describe the methods of supplemental watering delivery; and (13) the timeframe for which the site must sustain itself without supplemental watering and meet the identified success criteria.	ITP Condition # 7.12	Entire Project	Permittee	
POST-CONSTRUCTION					
64	<u>Refuse Removal.</u> Upon completion of Covered Activities, Permittee shall remove and properly dispose of all temporary fill and construction refuse from the Project Overburden Site and Mitigation Site, including, but not limited to, exclusionary fencing, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.16	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
65	<u>Final Mitigation Report</u> . No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report following the directions provided in Condition of Approval 7.9 above. The Designated Representative or shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 7.13	Post-construction and after completion of mitigation	Permittee	
66	CDFW accepts the Final Mitigation Report as complete.	ITP Condition # 7.13	Post-construction	CDFW	

ATTACHMENT 2

PLEASE NOTE: While use of this form is not mandatory, CDFW strongly recommends completing this form as it will ensure the receipt of adequate information and expedite CDFW review of biologist qualifications.

Name of Biologist & Contact Information

Education: (include year graduated)

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

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

Species Name #1 (Example: California Tiger Salamander)

Project Name #1 (list the information below for all projects (separately) where biologist worked with this species; please only include projects on the resume that demonstrate experience with the Covered Species (or similar species) in the ITP)

Location:

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

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

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

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

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #2

Location:

Project date completed: To and from date

Incidental Take Permit # (and Other Agency Permits):

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

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

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #3 ...

Species Name #3 (Example: Similar or related species to California Tiger Salamander)

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

Location:

Project date completed: To and from date

Incidental Take Permit # (and Other Agency Permits):

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

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

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #2

Location:

Project date completed: To and from date

Incidental Take Permit # (and Other Agency Permits):

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

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

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #3 ...

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

The Declining Amphibian Task Force Fieldwork Code of Practice

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

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

Attachment 4

[Financial institution letterhead]

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

Issue Date: **[date]**

Beneficiary:

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

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

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

Dear Sirs:

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

which is attached hereto, at our office located at [***name and address of financial institution***].

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

Conservation Planning Branch, Post Office Box 944209, Sacramento, CA 94244-2090, Attn: HCPB Contract Coordinator; and (ii) for the Applicant: [***name and address of applicant***].

15. This Credit may not be transferred.
16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the Uniform Commercial Code, Article 5 of the State of California.
17. This Credit shall, if not canceled, expire on [***expiration date***], or any extended expiration date.
18. We hereby agree with CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.
19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[Name of financial institution]

By: _____
Name: _____
Title: _____
Telephone: _____

ATTACHMENT A

CERTIFICATE FOR DRAWING

[CDFW Letterhead]

[Date]

[Name and address of financial institution]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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

ATTACHMENT B

CERTIFICATE FOR CANCELLATION/REDUCTION

[CDFW Letterhead]

[Date]

[Name and address of financial institution]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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

State of California - Department of Fish and Wildlife
MITIGATION PAYMENT TRANSMITTAL FORM
 DFW 1057 (REV.05/18/21)

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

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

4. AGREEMENT/ACCOUNT INFORMATION: (check the applicable type)

2081 Permit Conservation Bank 2835 NCCP 1802 Agreement 1600 Agreement Other _____

Project Tracking Number

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

Check information:

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

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

b. Habitat Enhancement Subtotal \$ _____

c. Security:

 1. Cash Refundable Security Deposit Subtotal \$ _____

 2. Letter of Credit Subtotal \$ _____

 1. Financial Institution: _____

 2. Letter of Credit Number: _____

 3. Date of Expiration: _____

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

Please send this form to asbmitigation@wildlife.ca.gov