



**California Department of Fish and Wildlife
Inland Deserts Region
3602 INLAND EMPIRE BOULEVARD, SUITE C-220
ONTARIO, CA, 91764**

California Endangered Species Act
Incidental Take Permit No. 2081-2022-081-06

HEAPS PEAK EAST SLOPE REPAIR PROJECT

I. Authority:

This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the 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:	San Bernardino County Department of Public Works
Principal Officer:	Anthony Pham, Engineering Manager
Contact Person:	Patrick Egle, (909) 387 - 8109
Mailing Address:	825 East Third Street, Rm 123 San Bernardino, CA 92415

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 **May 31, 2030**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.7 of this ITP.

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

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

III. Project Location:

The Heaps Peak East Slope Repair Project (Project) is in San Bernardino County at the Heaps Peak Transfer Station and Landfill in the San Bernardino Mountains (See Figure 1). The Project site is located at 29898 State Highway 18, Rim of the World Highway, Running Springs, CA 92382, while the slope repair is found in the upper headquarters of Shake Creek in Section 24, Township 2 North, and Range 3 West.

IV. Project Description:

The Project proposes to stabilize an approximately 4.12-acre area of pine-needle debris mixed with miscellaneous municipal waste located east of the permitted Heaps Peak Transfer Station and Landfill footprint. The “pine-needle disposal area” (consists of a 20-foot-high steep slope of waste exposed where the waste slopes transition from about 2:1 (horizontal to vertical) to steeper (1:1) native slopes that are approximately 150 feet high. The Project proposes to stabilize this mound to prevent further erosion by implementing grading, excavation, and fill. Retaining walls, concrete v-ditches, and concrete channels/drainage will be constructed to convey flows and route flows away from the slope, preventing further erosion.

Project construction consists of:

- Slope stabilization including miscellaneous grading, excavation, and fill
- Construction of a retaining wall mid-slope that is 25 feet high and 185 feet long
- Construction of a concrete v-ditch at the toe of the slope along the eastern edge of the slope repair
- Construction of a concrete v-ditch along the northern edge of the 185-foot upper retaining wall
- Construction of a second lower retaining wall at the toe of the slope (19 feet high x 55 feet long) along the property line
- Placement of soil cover over the pine needle debris from offsite sources
- Construction of concrete channels and other drainage structures to route flows away from the slope.

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. Southern Rubber Boa (<i>Charina umbratica</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

³ Under 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)(4)(C).

of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include the excavation, contouring, and compaction of the landfill slope, construction of concrete channels, v-ditches, and retaining walls, as well as any grading and excavation needed (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 crushing, burying, vehicle strikes, and exposure. 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 handling and relocation. The areas where authorized take of the Covered Species is expected to occur include: excavation and slope stabilization areas, stockpile, staging, and storage areas, and access roads (collectively, the Project Area).

The Project is expected to cause the permanent loss of 1.55 acres of habitat for the Covered Species, including a maternal outcrop, and temporary loss of 6.06 acres of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include stress resulting from noise and vibrations from construction and long-term effects due to displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

VII. Incidental Take Authorization of Covered Species:

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

VIII. Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to

the Covered Species in the Biological Resources section of the Mitigated Negative Declaration and Initial Study (SCH No.: 2012031087) adopted by San Bernardino County on May 22, 2012, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in any Lake and Streambed Alteration Agreement (LSAA) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- 4. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
- 5. General Provisions:**
 - 5.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 5.2. Designated Biologist.** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological 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 Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.
 - 5.3. Designated Biologist Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated

Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.

- 5.4. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 5.5. Construction Monitoring Documentation.** The Designated Biologist shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.
- 5.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 5.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.

- 5.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 5.9. 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 in that area.
- 5.10. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 5.11. 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 the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 5.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP.
- 5.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.

5.15. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6. Monitoring, Notification and Reporting Provisions:

6.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.

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

6.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. 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.

6.4. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Chelsea Price (Chelsea.Price@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.

- 6.5. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in [Condition of Approval 6.4]; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 6.6. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.7. Final Mitigation Report.** No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 6.8. Notification of Take or Injury.** Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling

the Regional Office at (909) 484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

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

7.1. Covered Species Surveys. Within the 8 months leading up to the proposed initiation date of Project construction and outside of snow conditions, the Designated Biologist(s) shall conduct covered species surveys. The surveys shall be conducted to ensure adequate coverage of the Project Area is achieved and particular attention is paid to suitable habitat. Covered species detected during surveys shall be tracked and monitored using passive integrated transponders, or PIT tags according to Condition of Approval 7.1.5. Surveys shall be conducted across temporarily (6.06 acres) and permanently (1.55 acres) impacted areas within the Project Area (Figure 2) as described below:

- 7.1.1. Placement of artificial coverings, at least 1-meter (m)² wide and at least 1 centimeter (cm) thick, or as otherwise discussed with CDFW, (i.e., plywood, tin, carpet, or other suitable materials, as discussed and approved by CDFW), to adequately cover sites within suitable habitat which are checked every 2 weeks in the absence of snow ground cover. The number and location of the coverings shall be determined by the Designated Biologist in coordination with CDFW. Seventy-five percent (75%) of the coverings shall be placed within 10 meters of above ground boulders, small rockslides, and rock piles and the remaining twenty-five percent (25%) of the coverings shall be placed within other covered species suitable habitat in the Project Area.
- 7.1.2. A monthly diurnal survey that includes visible inspections and rock and log turning searches; and
- 7.1.3. A monthly nocturnal visual survey (headlamps, spotlights) during optimal conditions (e.g., first five hours after sunset and temperatures ranging from 55 to 69 degrees).
- 7.1.4. During all surveys identified in Conditions of Approval 7.1.1-7.1.3, the Designated Biologist(s) shall:

7.1.4.1. Attempt to locate any previously PIT-tagged individuals for documentation and PIT-tag any new individuals. Captured covered species shall have a passive integrated transponder device, or PIT tag, inserted. The PIT tags shall be at a recognized frequency, 134.2-kHz, and appropriate size (i.e., Biomark Boise, Idaho, USA; 12.5-mm/HPT12 or an equivalent), with CDFW approval. The PIT tag shall be inserted subcutaneously using an implanter and appropriate needles to fit the tag size, type, and/or packaging (i.e., single use pre-load needle-syringe combinations, single use pre-load needles with applicable implant guns, and reusable needles with reusable syringes). The area where the PIT tag will be inserted shall be disinfected with alcohol before and after puncturing. To prevent the expulsion of a PIT tag, the incision may be sealed with medical grade suture glue. Before release, each captured covered species shall be measured and weighed, have their age and sex determined, any observed physical conditions noted; and methodology used for the placement of the PIT tag.

7.1.4.2. Perform PIT telemetry surveys using a portable reader (i.e., BiomarkHPR Plus portable reader) and antenna (i.e., BP portable antenna) with the strongest available PIT tag detection range (i.e., Biomark 30–43 cm), or CDFW approved equivalent, to scan artificial coverings, and natural shelter (i.e., large rocks, ledges, under logs, litter/duff) and other locations that covered species could inhabit. If the covered species is detected, the PIT tag number and global positioning system (GPS) coordinates shall be automatically recorded in the reader, along with the Designated Biologist searching the detection location to visually confirm its presence. If a covered species is detected but does not have, or has a defected, PIT tag, the Designated Biologist shall attempt to capture and place a PIT tag, as referred in Conditions of Approval 7.1.4.1

7.1.4.3. Upon covered species detection, the Designated Biologist(s) shall PIT-tag and release any suitable covered species. Any captured covered species shall be released onsite to the same or similar habitat as found.

7.1.5. A Designated Biologist shall prepare monthly survey results for CDFW review as specified in Condition of Approval 7.2.

7.2. Covered Species Survey Reports. Permittee shall submit to CDFW for review the results of the Covered Species surveys described in Condition of Approval 7.1 and 7.3. The reports shall include, but not be limited to: 1) name of surveyor(s); 2) dates of survey(s); 3) physical conditions (e.g. temperature, wind speed, etc.) at the time of the survey(s); 4) survey methodology; 5) area covered, including a map of any transects, routes, or locations of sampling, etc.; 6) locations (latitude/longitude) along with a map (Google Earth/GIS

shapefiles) of the artificial coverings, what was used, and what was observed underneath; 7) vegetation communities within the survey and buffer area; 8) details on what was observed (e.g. individuals, sign, rock outcrops, downed logs), location of the observation (latitude/longitude) along with a map (Google Earth/GIS shapefiles), description (size of log, size of rock), and accompanying photographs; and 9) details on PIT tagging (i.e., number of individuals PIT-tagged, PIT tag number). CDFW shall review and provide comments on the covered species survey report, where necessary.

7.3. Southern Rubber Boa Relocation/Translocation. Prior to initiating Project activities, the Designated Biologist(s) shall relocate/translocate all Covered Species from within the Project Area, as specified below.

7.3.1. Permittee shall submit a Southern Rubber Boa Relocation/Translocation Plan (SRBRTP) for CDFW review and approval no later than 3 months prior to the proposed Project initiation date. CDFW shall endeavor to provide written response to proposed SRBRTP within 14 days of submittal. The SRBRTP shall include, but not be limited to:

7.3.1.1. Timeframe for pre-construction clearance surveys and relocation/translocation (e.g., 2-5 days prior to initiation of ground-disturbing Covered Activities).

7.3.1.2. Methods the Designated Biologist will use to perform covered species clearance surveys within the Project prior to the start of any Covered Activities addressed by this ITP;

7.3.1.3. Identification of Relocation/Translocation Site(s) adjacent to the Project Area. Relocation/Translocation Site(s) shall provide suitable habitat of equal or better conditions as the Project Area to the Covered Species. If the proposed site is not adjacent to the Project Area, justifications for the relocation/translocation site shall be provided to CDFW for approval. As part of the Relocation/Translocation Site(s) approval process, the Designated Biologist shall provide for CDFW review a habitat assessment of the Relocation/Translocation Site(s) (i.e., map and acreage of high, medium, and low habitat quality and features, percent native and non-native vegetation cover, number and size of rock out crops, percent bare ground, percent duff cover, aspect, number of downed logs, streambed features, adjacent land use etc.) .

7.3.1.4. Number and locations of artificial coverings proposed for placement within the proposed Relocation/Translocation Site(s). The artificial coverings shall be at least 1-meter (m)² wide and at least 1 centimeter (cm) thick, or as

otherwise discussed and approved by CDFW (i.e., plywood, tin, carpet, or other suitable materials discussed and approved by CDFW) and shall be placed within suitable habitat (i.e., 10 m from ground boulders, small rockslides, and rock piles).

7.3.1.5. Methods the Designated Biologist(s) will use to capture, transport, and release individuals found within the Project Area.

7.3.2. Once CDFW has approved the SRBRTP and Relocation/Translocation Site(s), Permittee shall immediately place the artificial coverings in the Relocation/Translocation Site(s), install exclusion fences (Condition of Approval 7.5), perform the pre-construction clearance survey (Condition of Approval 7.8), and relocate/translocate any captured Covered Species individuals, as specified in the CDFW-approved SRBRTP.

7.3.3. The Designated Biologist(s) shall conduct Covered Species surveys, as described in 7.1.4.2 (with the exception of PIT-tagging any new, non-relocated individuals) for all individuals relocated/translocated within the Relocation/Translocation Site(s) quarterly for the first year, and annually thereafter for five (5) years. Data collected shall follow Condition of Approval 7.2. Survey results shall be provided to CDFW for review within 30 days of completing surveys (Condition of Approval 7.4).

7.4. Southern Rubber Boa Relocation/Translocation Survey Report. Permittee shall submit to CDFW for review the results of the southern rubber boa relocation/translocation surveys within 30 days of completing surveys as described in Condition of Approval 7.3.3.

7.5. Exclusionary Fencing Installation. Permittee shall fence all storage and stockpile areas with appropriate fencing material for the covered species (i.e., silt, hardware cloth, or Animex). If the data collected during the coverboard surveys show any other locations in the Project Area that are susceptible to the Covered Species, fencing shall be erected around the perimeter of these locations, in coordination with CDFW, fourteen (14) days prior to ground disturbing activities. A temporary barrier shall also be installed along construction access routes prior to commencing Covered Activities. The Designated Biologist(s) shall be present during the fence installation to move the Covered Species out of harm's way according to the SRBRTP. Immediately before start of construction, Permittee shall implement Condition of Approval 7.11.2, to avoid entrapment of the covered species within exclusionary fencing.

7.5.1. The Designated Biologist(s) shall visually inspect the areas within exclusionary fencing for the Covered Species immediately before the start Covered Activities.

Any entrapped Covered Species shall be PIT-tagged and moved according to the SRBRTP (Condition of Approval 7.3)

- 7.6. Exclusionary Fence Maintenance.** Permittee shall inspect the covered species exclusionary fencing at the close of each workday during initial ground disturbance within Covered Species habitat, and twice weekly thereafter during active construction, to ensure that it is in place and properly maintained for the duration of Covered Activities. Permittee shall ensure fencing is repaired or replaced immediately if the materials are damaged, lost, stolen, or become ineffective in anyway. If fencing was compromised during a period of inactivity, then the Designated Biologist shall conduct a clearance survey prior to reinitiating groundwork. Permittee shall implement Condition of Approval 7.11.2, to avoid entrapment of covered species within exclusionary fencing.
- 7.7. Suitable habitat minimization.** Suitable habitat for the Covered Species shall be avoided to the maximum extent possible and will be avoided through flagging or other method of demarcation (see Condition of Approval 7.5).
- 7.7.1. Brush piles shall not be created within 300 feet (92 meters), or reasonable distance discussed with and approved by CDFW, of rock outcrops and existing logs in rubber boa habitat. If this is not possible, exclusionary fencing shall be placed around brush piles to prevent usage by boas.
- 7.7.2. A 100-foot buffer, or reasonable buffer discussed with and approved by CDFW, shall be placed around any rock outcropping and avoided. If Project activities must occur within the buffer, they shall be monitored by the Designated Biologist(s) and conducted at a distance determined appropriate by the Designated Biologist(s).
- 7.8. Initial Covered Species Salvage.** Designated Biologist(s) shall conduct pre-construction surveys for the Covered Species within all areas proposed for disturbance, including slope stabilization site and access roads and before the installation of any temporary Covered Species barriers. Designated Biologist(s) shall focus on moveable surface materials such as rocks, logs, and manmade debris that may provide shelter for Covered Species. Individual Covered Species shall be safely captured, PIT-tagged and relocated to the CDFW approved relocation/translocation site. Survey and salvage efforts shall be completed no more than 24 hours prior to initiation of Covered Activities.
- 7.9. Material Salvage.** All brush, debris, and cleared vegetation shall be removed and disposed of properly or reused elsewhere at an approved location within the Project Area where it will not wash into any riparian areas. If any well-developed duff layers are encountered, they shall be salvaged and used in restoration efforts to improve habitat suitability for the

Covered Species. If any brush, debris, or cleared vegetation is piled for more than one day, than a Designated Biologist(s) shall survey the potential refugia just prior to its removal.

7.10. Ongoing Covered Species Construction Monitoring. Designated Biologist(s) shall complete ongoing inspections of storage, staging, and stockpile area; work pads; parked or stored equipment; access routes; and construction areas to ensure no Covered Species are present. This also includes any moveable surfaces such as logs, rocks, manmade debris, and under vehicles and equipment each time vehicles and equipment are moved. Any Covered Species found within the work area shall be PIT-tagged and moved to adjacent suitable habitat according to the SRBRTP (Condition of Approval 7.3).

7.11. Entrapment Avoidance. At the end of each workday, Permittee shall secure any open trench or excavated area within the Project Area such that Covered Species are unable to enter and become entrapped. The excavated areas must be secured using appropriate site-and species-specific methods, such as, backfilling, placing plywood or other barrier materials over the excavated area, placing an escape ramp of suitable material an at an angle no greater than 30 degree at each end of the open trench/excavated area, or installing temporary fencing around the perimeter of trenches holes. Permittee shall inspect all open trenches and excavated areas daily and the Designated Biologist(s) shall PIT-tag and move any entrapped Covered Species to adjacent suitable habitat according to the SRBRTP (Condition of Approval 7.3).

7.11.1. Permittee shall cover or cap all construction materials or supplies not in use or installed. Any construction pipe, culvert, or other hollow materials shall be inspected for wildlife before it is moved, buried, or capped. The Designated Biologist(s) shall PIT-tag and move any entrapped Covered Species to adjacent suitable habitat according to the SRBRTP (Condition of Approval 7.3).

7.11.2. The Designated Biologist(s) shall visually inspect the entire Project Area within exclusionary fencing for the Covered Species immediately before the start Covered Activities. Any entrapped Covered Species shall be PIT-tagged and moved according to the SRBRTP (Condition of Approval 7.3)

7.12. Lighting Minimization. Due to the nocturnal nature of the Covered Species a Designated Biologist(s) shall always be present during nighttime construction.

7.12.1. All construction related lighting shall not have significant illumination pass beyond the immediate work areas and must also implement shielding techniques.

7.13. 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 6.8. Notification shall include the name of the facility where the animal was taken.

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

To meet this requirement, the Permittee shall provide for both the permanent protection and management of 13.81 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.3 below. The permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations. The Permittee shall also restore on-site 6.06 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.5 below.

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

- 8.1.1. Land acquisition costs for HM lands identified in Condition of Approval 8.2 below, estimated at \$35,000.00/acre for 13.81 acres: **\$483,350.00**. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;
- 8.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 8.2.1 and 8.2.2 below: **\$17,440.00**;
- 8.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.2.6 below, estimated at **\$4,650.00**; including.

- 8.1.4. Interim management period funding as described in Condition of Approval 8.2.7 below, estimated at **\$4,184.77**;
- 8.1.5. Long-term management funding as described in Condition of Approval 8.3 below, estimated at \$8,333.33/acre for 13.81 acres: **\$115,083.27**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
- 8.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.4, estimated at **\$3,000.00**.
- 8.1.7. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.5, calculated at \$12,000.00/acre for 6.06 acres: **\$72,720.00**.
- 8.1.8. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work **\$75,000.00**.

8.2. 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:

- 8.2.1. 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.
- 8.2.2. 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 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.

- 8.2.3. 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;
- 8.2.4. 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;
- 8.2.5. 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.
- 8.2.6. 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 ; (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.

8.2.7. 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.

8.3. 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 8.2.6. 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.

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

- 8.3.1. 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).

- 8.3.2. 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.

- 8.3.2.1. 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.

- 8.3.2.2. 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:

- 8.3.2.2.1. 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.
 - 8.3.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
 - 8.3.2.2.3. 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.
- 8.3.3. 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.
- 8.3.4. 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 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.

- 8.4. 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.
- 8.5. Habitat Restoration.** Permittee shall restore on-site the 6.06 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 6 months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 6.06 acres of temporary construction disturbance on-site and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The plan shall also indicate the best time of year for seeding to occur.
- 9. 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 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:
- 9.1. Security Amount.** The Security shall be in the amount of **\$775,428.04** or in the amount identified in 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 8.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.
- 9.2. Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 9.3. Security Timeline.** The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 9.4. Security Holder.** The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 9.5. Security Transmittal.** Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.
- 9.6. Security Drawing.** The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.

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

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

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

IX. Amendment:

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

X. Stop-Work Order:

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

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

XI. Compliance with Other Laws:

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

XII. Notices:

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

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, CA 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 (2081-2022-081-06) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Heidi Calvert, Regional Manager
California Department of Fish and Wildlife
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
Telephone (909) 484-0523
Heidi.Calvert@wildlife.ca.gov

and a copy to:

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

Incidental Take Permit
No. 2081-2022-081-06
SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS
HEAPS PEAK EAST SLOPE REPAIR PROJECT

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

Chelsea Price
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
Telephone (760) 507-5059
Chelsea.Price@wildlife.ca.gov

XIII. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, San Bernardino County. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Heaps Peak Slope Repair, (SCH No.: 2012031087) dated March 27, 2012, that San Bernardino County adopted for Heaps Peak East Slope Repair Project on May 22, 2012. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

XIV. Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Heaps Slope Repair, 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

Incidental Take Permit
No. 2081-2022-081-06
SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS
HEAPS PEAK EAST SLOPE REPAIR PROJECT

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

XV. Attachments:


FIGURE 1

Project Location

Incidental Take Permit
No. 2081-2022-081-06
SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS
HEAPS PEAK EAST SLOPE REPAIR PROJECT

FIGURE 2	Project Area with Impacts
FIGURE 3	Project Area with Maternal Outcrop
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 07/24/2023

DocuSigned by:

CAEE4779B63E4A3...

Heidi Calvert, Regional Manager
Inland Deserts Region

ACKNOWLEDGMENT

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

By:  _____ Date: 10/4/2023

Printed Name: Anthony Pham Title: Engineering Manager

Incidental Take Permit
 No. 2081-2022-081-06
SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS
HEAPS PEAK EAST SLOPE REPAIR PROJECT

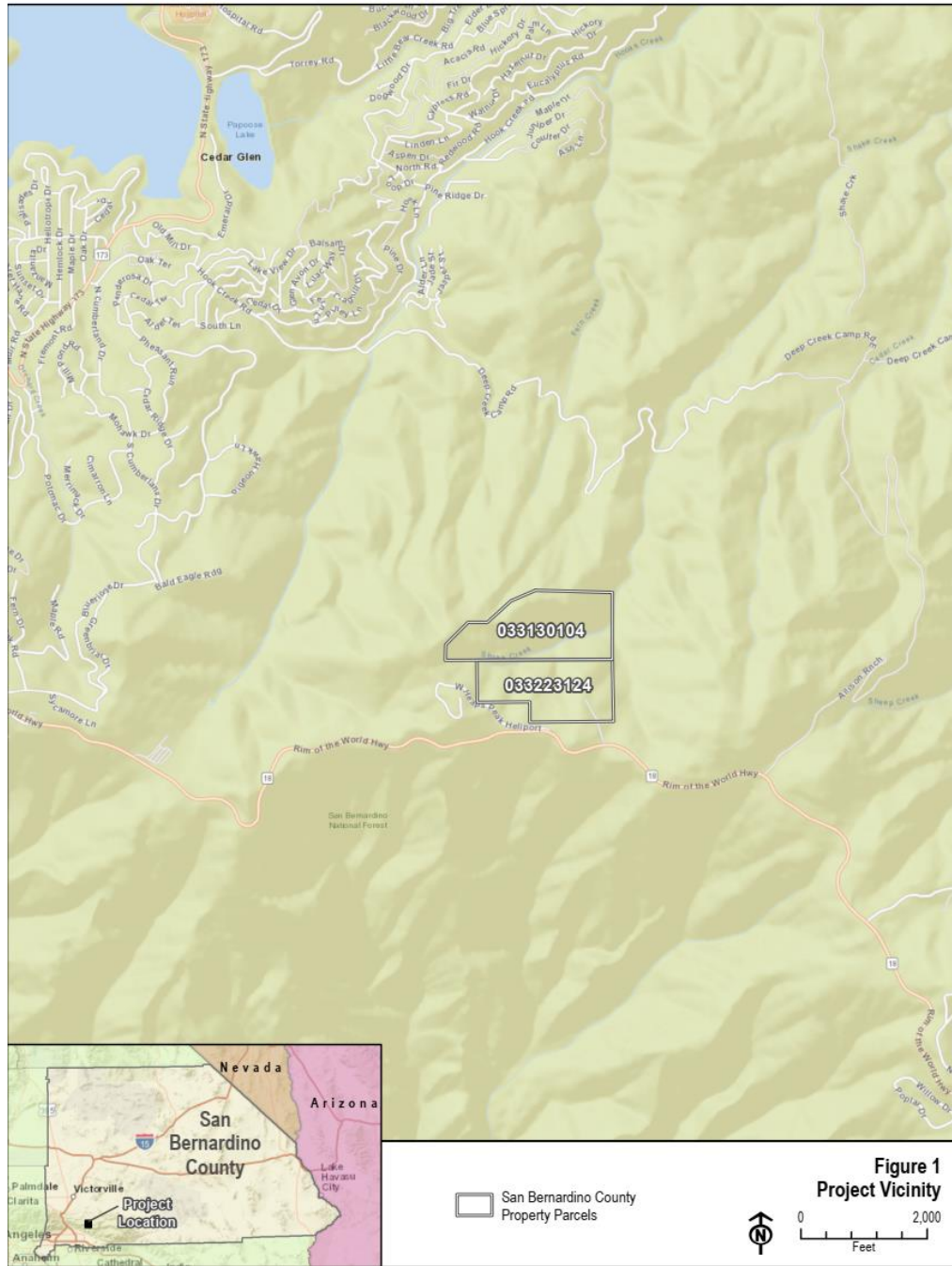


Figure 1. Project location within San Bernardino County.

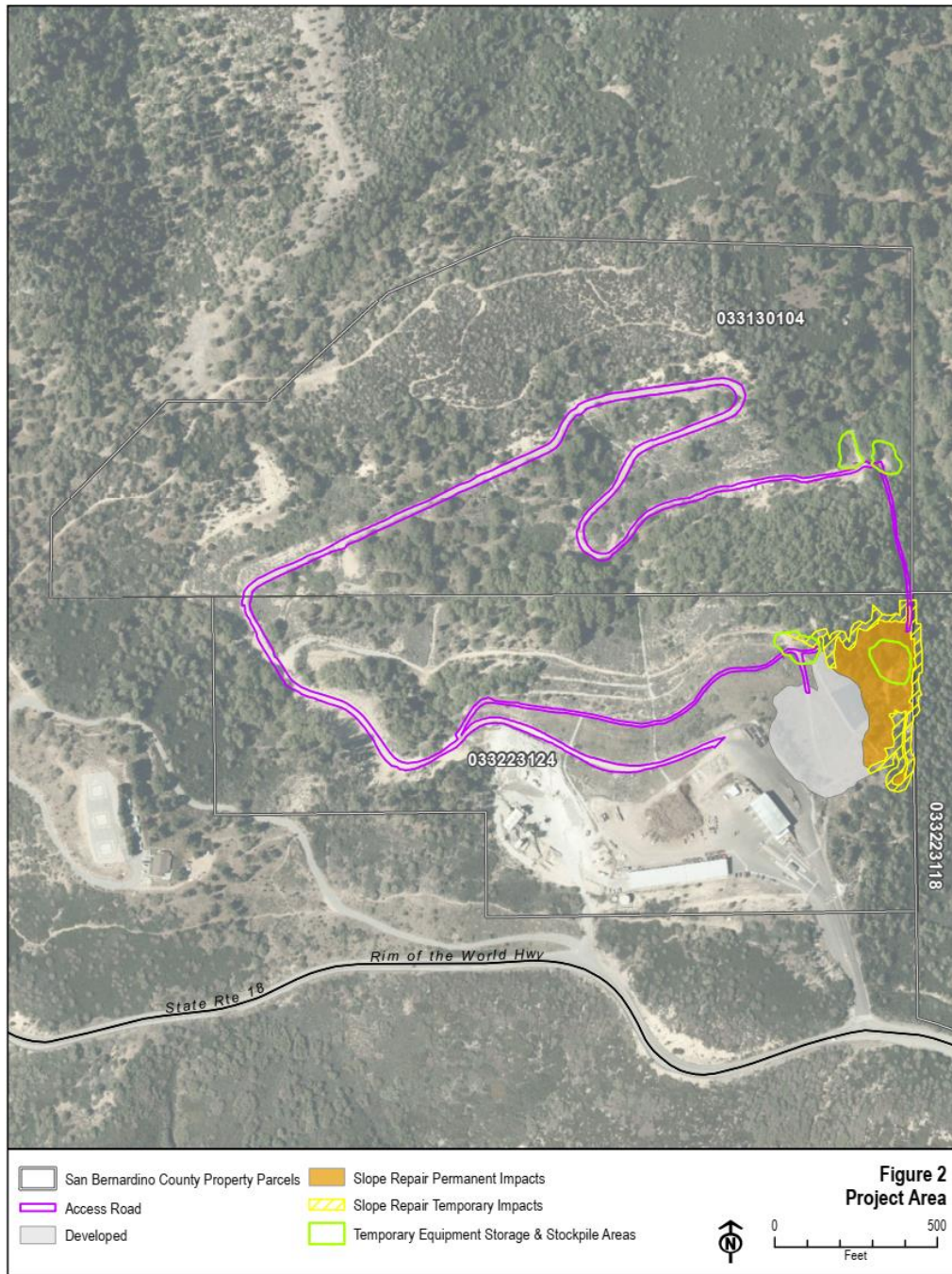


Figure 2. Project Area with permanent (shaded yellow) and temporary (diagonal yellow), access roads (pink), and temporary equipment storage and stockpile areas (green outline).

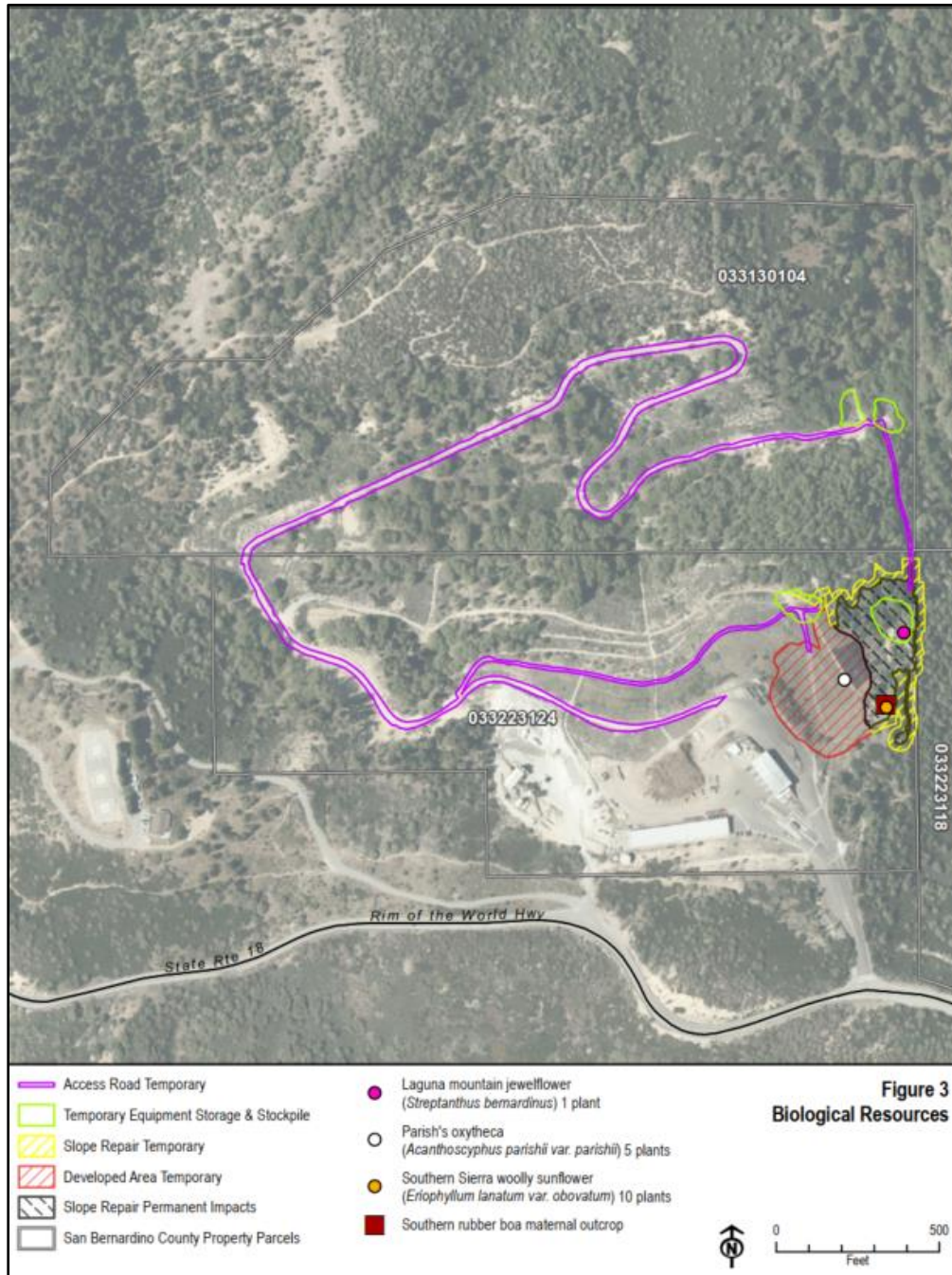


Figure 3. Project Area with biological resources noted. Southern rubber boa maternal outcrop within permanent impact area.

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2022-081-06

PERMITTEE: San Bernardino County Department of Public Works

PROJECT: Heaps Peak East Slope Repair Project

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology and natural history of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 5.2	At least 30 days before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
3	Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before their performing work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures.	ITP Condition # 5.4	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
4	Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in closed (animal-proof) containers and removed regularly (at least once a week) to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 5.6	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
5	Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 5.7	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
6	Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities in that area.	ITP Condition # 5.9	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
7	Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 5.10	Before commencing ground- or vegetation-disturbing activities	Permittee	
8	The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 6.1	14 days Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
9	<p>Within the 8 months leading up to the proposed initiation date of Project construction and outside of snow conditions, the Designated Biologist(s) shall conduct covered species surveys. The surveys shall be conducted to ensure adequate coverage of the Project Area is achieved and particular attention is paid to suitable habitat. Covered species detected during surveys shall be tracked and monitored using passive integrated transponders, or PIT tags according to Condition of Approval 7.1.5. Surveys shall be conducted across temporarily (6.06 acres) and permanently (1.55 acres) impacted areas within the Project Area (Figure 2) as described below</p> <ol style="list-style-type: none"> 1. Placement of artificial coverings, at least 1-meter (m)² wide and at least 1 centimeter (cm) thick, or as otherwise discussed with CDFW (i.e., plywood, tin, carpet, or other suitable materials, as discussed and approved by CDFW), to adequately cover sites within suitable habitat which are checked every 2 weeks in the absence of snow ground cover. The number and location of the coverings shall be determined by the Designated Biologist in coordination with CDFW. Seventy-five percent (75%) of the coverings shall be placed within 10 meters of above ground boulders, small rockslides, and rock piles and the remaining twenty-five percent (25%) of the coverings shall be placed within other covered species suitable habitat in the Project Area. 2. A monthly diurnal survey that includes visible inspections and rock and log turning searches; and 3. A monthly nocturnal visual survey (headlamps, spotlights) during optimal conditions (e.g., first five hours after sunset and temperatures ranging from 55 to 69 degrees). 4. During all surveys identified in Conditions of Approval 1-3, the Designated Biologist(s) shall: <ol style="list-style-type: none"> a. Attempt to locate any previously PIT-tagged individuals for documentation and PIT-tag any new individuals. Captured covered species shall have a passive integrated transponder device, or PIT tag, inserted. The PIT tags shall be at a recognized frequency, 134.2-kHz, and appropriate size (i.e., Biomark Boise, Idaho, USA; 12.5-mm/HPT12 or an equivalent), with CDFW approval. The PIT tag shall be inserted subcutaneously using an implanter and appropriate needles to fit the tag size, type, and/or packaging (i.e., single use pre-load needle-syringe combinations, single use pre-load needles with applicable implant guns, and reusable needles with reusable syringes). The area where the PIT tag will be inserted shall be disinfected with alcohol before and after puncturing. 	ITP Condition # 7.1.1 – 7.1.5	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
9 (con.)	<p>To prevent the expulsion of a PIT tag, the incision may be sealed with medical grade suture glue. Before release, each captured covered species shall be measured and weighed, have their age and sex determined, any observed physical conditions noted; and methodology used for the placement of the PIT tag.</p> <p>b. Perform PIT telemetry surveys using a portable reader (i.e., BiomarkHPR Plus portable reader) and antenna (i.e., BP portable antenna) with the strongest available PIT tag detection range (i.e., Biomark 30–43 cm), or CDFW approved equivalent, to scan artificial coverings, and natural shelter (i.e., large rocks, ledges, under logs, litter/duff) and other locations that covered species could inhabit. If the covered species is detected, the PIT tag number and global positioning system (GPS) coordinates shall be automatically recorded in the reader, along with the Designated Biologist searching the detection location to visually confirm its presence. If a covered species is detected but does not have, or has a defected, PIT tag, the Designated Biologist shall attempt to capture and place a PIT tag, as referred in Conditions of Approval 4 (a)</p> <p>c. Upon covered species detection, the Designated Biologist(s) shall PIT-tag and release any suitable covered species. Any captured covered species shall be released onsite to the same or similar habitat as found.</p> <p>d. A Designated Biologist shall prepare monthly survey results for CDFW review as specified in Condition of Approval 7.2.</p>	ITP Condition # 7.1.1 – 7.1.5	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
10	Permittee shall submit to CDFW for review the results of the Covered Species surveys described in Condition of Approval 1 – 3. The reports shall include, but not be limited to: 1) name of surveyor(s); 2) dates of survey(s); 3) physical conditions (e.g. temperature, wind speed, etc.) at the time of the survey(s); 4) survey methodology; 5) area covered, including a map of any transects, routes, or locations of sampling, etc.; 6) locations (latitude/longitude) along with a map (Google Earth/GIS shapefiles) of the artificial coverings, what was used, and what was observed underneath; 7) vegetation communities within the survey and buffer area; 8) details on what was observed (e.g. individuals, sign, rock outcrops, downed logs), location of the observation (latitude/longitude) along with a map (Google Earth/GIS shapefiles), description (size of log, size of rock), and accompanying photographs; and 9) details on PIT tagging (i.e., number of individuals PIT-tagged, PIT tag number). CDFW shall review and provide comments on the covered species survey report, where necessary.	ITP Condition # 7.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	<p>1. Permittee shall submit a Southern Rubber Boa Relocation/Translocation Plan (SRBRTP) for CDFW review and approval no later than 3 months prior to the proposed Project initiation date. CDFW shall endeavor to provide written response to proposed SRBRTP within 14 days of submittal. The SRBRTP shall include, but not be limited to:</p> <ol style="list-style-type: none"> Timeframe for pre-construction clearance surveys and relocation/translocation (e.g., 2-5 days prior to initiation of ground-disturbing Covered Activities). Methods the Designated Biologist will use to perform covered species clearance surveys within the Project prior to the start of any Covered Activities addressed by this ITP; Identification of Relocation/Translocation Site(s) adjacent to the Project Area. Relocation/Translocation Site(s) shall provide suitable habitat of equal or better conditions as the Project Area to the Covered Species. If the proposed site is not adjacent to the Project Area, justifications for the relocation/translocation site shall be provided to CDFW for approval. As part of the Relocation/Translocation Site(s) approval process, the Designated Biologist shall provide for CDFW review a habitat assessment of the Relocation/Translocation Site(s) (i.e., map and acreage of high, medium, and low habitat quality and features, percent native and non-native vegetation cover, number and size of rock outcrops, percent bare ground, percent duff cover, aspect, number of downed logs, streambed features, adjacent land use etc.) . 	ITP Condition # 7.3.1 – 7.3.3	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
11 (con.)	<p>d. Number and locations of artificial coverings proposed for placement within the proposed Relocation/Translocation Site(s). The artificial coverings shall be at least 1-meter (m)² wide and at least 1 centimeter (cm) thick, or as otherwise discussed and approved by CDFW (i.e., plywood, tin, carpet, or other suitable materials discussed with and approved by CDFW) and shall be placed within suitable habitat (i.e., 10 m from ground boulders, small rockslides, and rock piles).</p> <p>e. Methods the Designated Biologist(s) will use to capture, transport, and release individuals found within the Project Area.</p> <p>2. Once CDFW has approved the SRBRTP and Relocation/Translocation Site(s), Permittee shall immediately place the artificial coverings in the Relocation/Translocation Site(s), install exclusion fences (Condition of Approval 7.5), perform the pre-construction clearance survey (Condition of Approval 7.8), and relocate/translocate any captured Covered Species individuals, as specified in the CDFW-approved SRBRTP.</p> <p>3. The Designated Biologist(s) shall conduct Covered Species surveys, as described in 7.1.4.2 (with the exception of PIT-tagging any new, non-relocated individuals) for all individuals relocated/translocated within the Relocation/Translocation Site(s) quarterly for the first year, and annually thereafter for five (5) years. Data collected shall follow Condition of Approval 7.2. Survey results shall be provided to CDFW for review within 30 days of completing surveys (Condition of Approval 7.4).</p>	ITP Condition # 7.3.1 – 7.3.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
12	Permittee shall submit to CDFW for review the results of the southern rubber boa relocation/translocation surveys within 30 days of completing surveys as described in Condition of Approval 7.3.3	ITP Condition # 7.4	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
13	<p>Permittee shall fence all storage and stockpile areas with appropriate fencing material for the covered species (i.e., silt, hardware cloth, or Animex). If the data collected during the coverboard surveys show any other locations in the Project Area that are susceptible to the Covered Species, fencing shall be erected around the perimeter of these locations, in coordination with CDFW, fourteen (14) days prior to ground disturbing activities. A temporary barrier shall also be installed along construction access routes prior to commencing Covered Activities. The Designated Biologist(s) shall be present during the fence installation to move the Covered Species out of harm's way according to the SRBRTP. Immediately before start of construction, Permittee shall implement Condition of Approval 7.11.2, to avoid entrapment of the covered species within exclusionary fencing.</p> <p>1. The Designated Biologist(s) shall visually inspect the areas within exclusionary fencing for the Covered Species immediately before the start Covered Activities. Any entrapped Covered Species shall be PIT-tagged and moved according to the SRBRTP (Condition of Approval 7.3)</p>	ITP Condition # 7.5	Before commencing ground- or vegetation-disturbing activities	Permittee	
14	<p>Designated Biologist(s) shall conduct pre-construction surveys for the Covered Species within all areas proposed for disturbance, including slope stabilization site and access roads and before the installation of any temporary Covered Species barriers. Designated Biologist(s) shall focus on moveable surface materials such as rocks, logs, and manmade debris that may provide shelter for Covered Species. Individual Covered Species shall be safely captured, PIT-tagged and relocated to the CDFW approved relocation/translocation site. Survey and salvage efforts shall be completed no more than 24 hours prior to initiation of Covered Activities.</p>	ITP Condition # 7.8	Before commencing ground- or vegetation-disturbing activities	Permittee	
15	<p>All brush, debris, and cleared vegetation shall be removed and disposed of properly or reused elsewhere at an approved location within the Project Area where it will not wash into any riparian areas. If any well-developed duff layers are encountered, they shall be salvaged and used in restoration efforts to improve habitat suitability for the Covered Species. If any brush, debris, or cleared vegetation is piled for more than one day, than a Designated Biologist(s) shall survey the potential refugia just prior to its removal.</p>	ITP Condition # 7.9	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
16	Permittee shall provide for both the permanent protection and management of 13.81 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.3 below. The permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations. The Permittee shall also restore on-site 6.06 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.5 below	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
17	For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows: <ul style="list-style-type: none"> i) Land acquisition costs for HM lands identified in Condition of Approval 8.2 below, estimated at \$35,000.00/acre for 13.81 acres: \$483,350.00. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements ii) All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 8.2.1 and 8.2.2 below: \$17,440.00; 	ITP Condition #8.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
17 (con.)	<ul style="list-style-type: none"> iii) Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.2.6 below, estimated at \$4,650.00; . iv) Interim management period funding as described in Condition of Approval 8.2.7 below, estimated at \$4,184.77 v) Long-term management funding as described in Condition of Approval 8.3 below, estimated at \$8,333.33/acre for 13.81 acres: \$115,083.27. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management. vi) Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM Lands to CDFW as described in Condition 9.5, estimated at \$3000.00. vii) Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.5, calculated at \$12,000.00/acre for 6.06 acres: \$72,720.00 viii) All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work \$75,000.00. 	ITP Condition #8.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
18	<p>To provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, Permittee shall:</p> <p>8.2.1. 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.</p>	ITP Condition #8.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.	ITP Condition #8.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
20	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 #8.2.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
21	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 #8.2.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
22	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 #8.2.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	Permittee shall provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see http://www.dfg.ca.gov/habcon/conplan/mitbank/); (2) conducting a baseline biological assessment and land survey report within 4 months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.	ITP Condition #8.2.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
24	<p>Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, vegetation and invasive species management, and monitoring of the Covered Species.</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 #8.2.7	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
25	<p>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 9.3.6. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</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 this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition #8.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
26	<p>The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.</p> <p>Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).</p>	ITP Condition #8.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
26 (con.)	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).	ITP Condition #8.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
27	After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.	ITP Condition #8.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
28	Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.	ITP Condition #8.3.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
29	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: 8.3.2.2.1. Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. 8.3.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding. 8.3.2.2.3. 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.	ITP Condition #8.3.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
30	Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.	ITP Condition #8.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	<p>The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this 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 Condition #8.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)		
32	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.	ITP Condition #8.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
33	Permittee shall restore on-site the 6.06 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 6 months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 6.06 acres of temporary construction disturbance on-site and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The plan shall also indicate the best time of year for seeding to occur.	ITP Condition #8.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
34	<p>The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>9.1. Security Amount. The Security shall be in the amount of \$775,428.04 or in the amount identified in 9.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.</p> <p>9.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>9.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.</p> <p>9.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>9.5. Security Transmittal. Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.</p> <p>9.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.</p> <p>9.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <p>Habitat Management Land Acquisition (HMLA)</p> <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands • Copies of all executed and recorded conservation easements • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment • 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 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
35	The Designated Biologist shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.	ITP Condition # 5.5	Entire Project	Permittee	
36	Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 5.8	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
37	Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 5.11	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
38	Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP	ITP Condition # 5.12	Entire Project	Permittee	
39	Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 5.13	Entire Project	Permittee	
40	Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition # 5.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
41	The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.	ITP Condition # 6.2	Entire Project	Permittee	
42	The Designated Biologist shall be on-site daily, or as otherwise approved by CDFW in writing, when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to: <ul 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 this ITP (4) check all exclusion zones (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 this ITP</p>	ITP Condition # 6.3	Entire Project	Permittee	
43	Quarterly Compliance Report: The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Chelsea Price (Chelsea.Price@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 # 6.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
44	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 6.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species	ITP Condition # 6.5	Entire Project	Permittee	
45	The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 6.6	Entire Project	Permittee	
46	Permittee shall inspect the covered species exclusionary fencing at the close of each workday during initial ground disturbance within Covered Species habitat, and twice weekly thereafter during active construction, to ensure that it is in place and properly maintained for the duration of Covered Activities. Permittee shall ensure fencing is repaired or replaced immediately if the materials are damaged, lost, stolen, or become ineffective in anyway. If fencing was compromised during a period of inactivity, then the Designated Biologist shall conduct a clearance survey prior to reinitiating groundwork. Permittee shall implement Condition of Approval 7.11.2, to avoid entrapment of covered species within exclusionary fencing.	ITP Condition # 7.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	<p>Suitable habitat for the Covered Species shall be avoided to the maximum extent possible and will be avoided through flagging or other method of demarcation (see Condition of Approval 7.5).</p> <ol style="list-style-type: none"> 1. Brush piles shall not be created within 300 feet (92 meters), or reasonable distance discussed with and approved by CDFW, of rock outcrops and existing logs in rubber boa habitat. If this is not possible, exclusionary fencing shall be placed around brush piles to prevent usage by boas. 2. A 100-foot buffer, or reasonable buffer discussed with and approved by CDFW, shall be placed around any rock outcropping and avoided. If Project activities must occur within the buffer, they shall be monitored by the Designated Biologist(s) and conducted at a distance determined appropriate by the Designated Biologist(s). 	ITP Condition # 7.7.1 – 7.7.2	Entire Project	Permittee	
48	<p>Designated Biologist(s) shall complete ongoing inspections of storage, staging, and stockpile area; work pads; parked or stored equipment; access routes; and construction areas to ensure no Covered Species are present. This also includes any moveable surfaces such as logs, rocks, manmade debris, and under vehicles and equipment each time vehicles and equipment are moved. Any Covered Species found within the work area shall be PIT-tagged and moved to adjacent suitable habitat according to the SRBRTP (Condition of Approval 7.3).</p>	ITP Condition # 7.10	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
49	<p>At the end of each workday, Permittee shall secure any open trench or excavated area within the Project Area such that Covered Species are unable to enter and become entrapped. The excavated areas must be secured using appropriate site-and species-specific methods, such as, backfilling, placing plywood or other barrier materials over the excavated area, placing an escape ramp of suitable material an at an angle no greater than 30 degree at each end of the open trench/excavated area, or installing temporary fencing around the perimeter of trenches holes. Permittee shall inspect all open trenches and excavated areas daily and the Designated Biologist(s) shall PIT-tag and move any entrapped Covered Species to adjacent suitable habitat according to the SRBRTP (Condition of Approval 7.3).</p> <ol style="list-style-type: none"> 1. Permittee shall cover or cap all construction materials or supplies not in use or installed. Any construction pipe, culvert, or other hollow materials shall be inspected for wildlife before it is moved, buried, or capped. The Designated Biologist(s) shall PIT-tag and move any entrapped Covered Species to adjacent suitable habitat according to the SRBRTP (Condition of Approval 7.3). 2. The Designated Biologist(s) shall visually inspect the entire Project Area within exclusionary fencing for the Covered Species immediately before the start Covered Activities. Any entrapped Covered Species shall be PIT-tagged and moved according to the SRBRTP (Condition of Approval 7.3) 	ITP Condition # 7.11 7.11.1 – 7.11.2	Entire Project	Permittee	
50	<p>Due to the nocturnal nature of the Covered Species a Designated Biologist(s) shall always be present during nighttime construction.</p> <ol style="list-style-type: none"> 1. All construction related lighting shall not have significant illumination pass beyond the immediate work areas and must also implement shielding techniques 	ITP Condition #7.12 – 7.12.1	Entire Project	Permittee	
51	<p>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 6.8. Notification shall include the name of the facility where the animal was taken.</p>	ITP Condition # 7.13	<p>Within 2 days of injury or death of Covered Species</p> <p>Entire Project</p>	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
52	Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (909) 484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition # 6.8	Within 2 days of injury or death of Covered Species Entire Project	Permittee	
53	To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.	ITP Condition # 5.3	Entire Project	CDFW	
POST-CONSTRUCTION					
54	Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition #5.15	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
55	No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 6.7	Post-construction and after completion of mitigation	Permittee	

Project Name:
LSA Agreement/ITP Number(s):



Department of Fish and Wildlife

BIOLOGIST RESUME COVER SHEET

SUBMIT EACH RESUME AS A SEPARATE DOCUMENT

Number of Resumes Included in Transmittal: _____

Name	Requested Role(s) ¹	Species/Resource(s)

¹ Requested roles correspond to the biological staffing requirements indicated in the Lake and Streambed Alteration (LSA) Agreement or California Endangered Species Act Incidental Take Permit (ITP). Roles may include a “Qualified Biologist” or “Designated Biologist” with the necessary experience to survey for special status species, or a “Biological Monitor” with the necessary experience to monitor construction activities for special status species. An individual may request more than one role.



Department of Fish and Wildlife

BIOLOGIST RESUME FORM

This form requests information about the qualifications of the Qualified Biologist, Designated Biologist and Biological Monitor specified in California Endangered Species Act Incidental Take Permits (ITP) and Lake or Streambed Alteration (LSA) Agreements issued by California Department of Fish and Wildlife (CDFW).

Completing this form will ensure the receipt of adequate information and expedite CDFW review of qualifications.

SECTION I. NAME AND CONTACT INFORMATION

Name:		Title:	
Company Name & Address:		Phone:	
		Email:	

SECTION II. EDUCATION

College/University & Degree Type Related to Natural Resource Science:	
Other Relevant Workshops & Training:	

SECTION III. ROLE(S) AND PERMIT REQUIREMENTS

Requested Role(s):	
Relevant LSA Agreement Measures or ITP Conditions ² :	

SECTION IV. SPECIES AND RESOURCE EXPERIENCE – SUMMARY

This section summarizes experience by special status species and other resource. Use one row for each species or other resource where surveys or special protections are required in the CESA ITP or LSA Agreement for which biologist approval is requested.³ If more space is needed, add rows to this table. Provide details in Section 5.

Species or Resource	Number of Field Seasons & Hours, Life Stages Observed <i>Provide project details in Section 5</i>	Life History Knowledge <i>Describe formal workshops & training with dates, or informal training details</i>	CDFW SCP, MOU, & USFWS 10a1a Authorization Number & Authorized Activities <i>This form does not fulfill SCP, MOU, & USFWS 10a1a reporting requirements</i>
Insert Species or Resource 1	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:
Insert Species or Resource 2	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:
Insert Species or Resource 3	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:

² List all measures and conditions from the LSA Agreement or ITP requiring biological staff (i.e., Qualified Biologist, Designated Biologist, or Biological Monitor).

³ Often LSA Agreements/ITPs require surveys and other protections for multiple species and other resources. Include only those for which the biologist has experience and is requesting approval.

SECTION V. SPECIES AND RESOURCE EXPERIENCE – DETAILS

This section details experience from the three most recent and relevant projects for each species and resource identified in Section 4. If more space is needed, attach additional pages in the same table format (i.e., copy/paste format).

A. Species or Resource:			
Project 1 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s) ⁴ :	
Survey Type(s) ⁵ :		Construction Monitoring ⁶ :	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB ⁷ (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 2 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 3 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:

⁴ Insert the role as described in the associated LSA Agreement, ITP or other agency permit. If these permits were not issued, describe the role based on the duties, e.g., "lead biologist with handling authorization" or "biological monitor."

⁵ For example, pre-construction survey or description of the protocol or guideline followed.

⁶ Include the number of days and describe the types of activities monitored (e.g., heavy equipment operation).

⁷ CNDDDB is the abbreviation for California Natural Diversity Database.

Project Name:
LSA Agreement/ITP Number(s):

Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Additional Information:			

B. Species or Resource:			
Project 1 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 2 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 3 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:

Project Name:
LSA Agreement/ITP Number(s):

Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Additional Information:			

C. Species or Resource:			
Project 1 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 2 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 3 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:

Project Name:
LSA Agreement/ITP Number(s):

Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why: CDFW and Other Agency Email:			
Additional Information:			

[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 in the Permit ("Mitigation Requirements").
4. We are finally informed that this Credit is intended by CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. CDFW shall be entitled to draw upon this Credit only by presentation of a duly executed Certificate for Drawing ("Certificate") in the same form as Attachment A, which is attached hereto, at our office located at **[name and address of financial institution]**.

6. The Certificate shall be completed and signed by an Authorized Representative of CDFW as defined in paragraph 12 below. Presentation by CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.
7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, 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 in 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

[*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 provided CDFW with an equivalent security approved by CDFW to replace the Credit.”]
2. CDFW therefore requests the cancellation of the Credit.

Therefore, CDFW has executed and delivered this Certificate for Cancellation 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 ACCOUNT SETUP REQUEST
SPECIAL DEPOSIT FUND 094200116/094200117
 DFW 1056 (REV. 05/18/21)

PERMIT/AGREEMENT INFORMATION:

Check the applicable type and attach a copy of the permit or agreement to this form.

<input type="checkbox"/> 2081 Permit	<input type="checkbox"/> Conservation Bank	<input type="checkbox"/> Other: _____
<input type="checkbox"/> 2835 NCCP	<input type="checkbox"/> 1600 Agreement	<input type="checkbox"/> 1802 Agreement Project Tracking Number: _____

Region: _____

Project Name: _____

Project Applicant Name: _____

Specific Purpose of Funding: _____

MITIGATION ACCOUNT FUND TYPE/AMOUNT: The following funds are to be remitted in connection with the above referenced project (a project may require more than one endowment fund depending on various species and habitat requirements. Discuss with ASB whether more than one mitigation account is appropriate):

a. Endowment Fund (094200116): _____ \$ _____

b. Habitat Enhancement (094200117): _____ \$ _____

c. Security: Cash Refundable Security Deposit (094200117) _____ \$ _____

d. Security Type: _____ \$ _____
 (Only as approved by Office of the General Counsel)

Renewal Date: _____

Automatically Renews: Yes No

REGIONAL CONTACTS:

Permit/Agreement Region Contact Name: _____

Phone/FAX: _____

Responsible CDFW Program: _____

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