



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

California Endangered Species Act
Incidental Take Permit No. 2081-2021-018-04
(Amendment 1)

**STATE ROUTE 5 PANOCHÉ HILLS CAPITAL
PREVENTATIVE MAINTENANCE PROJECT**

Authority:

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

| | |
|---------------------------|---|
| Permittee: | California Department of Transportation (Caltrans) |
| Principal Officer: | Robert Scott, Biology Branch Chief (Acting) |
| Contact Person: | Sukraj Gill, (559) 383-5562 |
| Mailing Address: | 2015 East Shields Avenue, Suite A-100 Fresno, California 93703 |

Amended ITP³ Background:

On February 28, 2024, CDFW received a request from the Permittee for a minor amendment to the original ITP and the corresponding fee payment. The request was to extend the time frame for completion of Habitat Management Land Acquisition by 36 months (from 18 months in the original ITP to 54 months). CDFW finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4). Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this amendment increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)). Issuance of this Amendment does not affect CDFW's

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.

³When this incidental take permit and attachments refer to the "ITP", it means the "Amended ITP" unless the context dictates otherwise.

previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

CDFW now reissues the ITP. The amended ITP includes all of the operative provisions as of the effective date of this amended ITP. Attachment 4 to this amended ITP shows the specific red-line changes made to the ITP as a result of this minor amendment.

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species (defined below) shall expire on **July 1, 2026**.

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 6.10 of this ITP.

Project Location:

The State Route 5 (SR 5) Panoche Hills Capital Preventative Maintenance Project (Project) will occur entirely within the Caltrans right-of-way (of varying width) over a 3-mile-long segment of SR 5, between post mile 37.2 and post mile 40.2 (**Project Area**), in western Fresno County (Figure 1). The 3-mile-long Project Area exists within Sections 18 and 19 of Township 16 South, Range 14 East, and Sections 12 and 13 of Township 16 South, Range 13 East, Mount Diablo Baseline and Meridian. The 3-mile-long Project Area can be found on the *Levis and Monocline Ridge, California* 7.5-minute United States Geological Survey (USGS) topographic map quadrangles.

The Project is part of a larger capital maintenance project occurring over an 11.6-mile segment of SR 5, and the Project Area constitutes the southernmost 3 miles of this larger capital maintenance project. The take authorization provided under this ITP is limited to the Project Area and does not extend to the larger capital maintenance project where it will occur outside the Project Area.

Project Description:

Within the three-mile-long Project Area, ground disturbance will be limited to 20 discreet (and overlapping) **Work Areas** involving the installation of two pair of new street lights, the installation of three pair of traffic count stations, and the rehabilitation of 15 existing culverts. Work at 11 of the 15 culverts is considered jurisdictional and will be accomplished under a companion Streambed Alteration Agreement issued by CDFW, and the remaining four culverts do not convey streams. Outside these 20 discreet Work Areas, work will involve roadway resurfacing and replenishing the gravel covering the three-foot wide shoulder

backing. This work outside the 20 discreet Work Areas will not involve ground disturbance. The Project Work Areas are depicted on Figure 2. The **Covered Activities** are described below:

Roadway Resurfacing

The Covered Activities will include cold-planing/grinding the top six inches of pavement over both the northbound and southbound lanes (and hard shoulder) along the 3-mile-long Project Area. After-cold planing/grinding, the roadway will be cleared of ground asphalt debris, and resurfaced with both rubberized and non-rubberized hot mix asphalt including the creation of rumble-strips within the hard shoulder. Some of the ground asphalt will be used to replenish the shoulder backing as discussed below, and the remainder will be exported from the Project Area. These roadway resurfacing activities are not expected to involve any ground disturbance.

Shoulder Backing Covering Replenishment

Along the three-mile Project Area, Permittee will replenish the aggregate/gravel pavement covering the three-foot wide engineered shoulder backing adjoining both sides of the paved roadway. In addition to aggregate/gravel, some of the ground asphalt resulting from the cold-planing/grinding activities will be used to replenish the shoulder backing covering. The aggregate/gravel/ground asphalt will be broadcast over the shoulder backing using heavy equipment operating from the roadway and hand crews with hand tools to prevent impacting small mammal burrow openings which will be flagged and temporarily covered with wooden or plastic disks. After broadcasting the aggregate/gravel/ground asphalt shoulder backing covering, a small horsepower smooth steel drum roller will be used to compact the replenished should backing. Alternatively, the aggregate/gravel/ground asphalt will be broadcast in proximity to suitable Covered Species burrow openings by hand crews using hand tools to avoid impacting these burrow openings. These shoulder backing replenishment activities are not expected to involve any ground disturbance.

New Traffic Count Stations Installation

Three pair of new traffic count stations will be installed across SR 5 near where it intersects with Kamm Avenue. The first pair consists of electrically powered loops and piezo axel sensors spanning the northbound and the southbound lanes, independently, at about post mile 38.1. The second and third pair similarly consist of loops and piezo axel sensors spanning both directions of travel independently, at about post mile 38.30 and 38.45, but are manual counters and will not be connected to electrical power. To minimize take of the Covered Species, the Covered Activities at these Work Areas will include efforts to salvage and relocate individuals of the Covered Species and temporarily exclude the species while work is being conducted.

At post mile 38.1, the electrical traffic count station will involve sensors installed across both the paved roadways (northbound and southbound) and electrical lines connecting a pull box within the gravel covered shoulder backing on both sides of both roadways. Another pull box

and controller box will be installed approximately 20 feet beyond the gravel covered shoulder backing adjoining the outside northbound lane. The pull boxes (and connecting electrical wires) will be installed below grade in three-foot square, three-foot deep holes and the controller box will be installed at grade or three feet below grade on a small (less than nine square feet) Portland concrete cement slab. The controller box will be connected to an electrical power source located near Kamm Avenue, necessitating the excavation of a 3-foot deep, 12-inch-wide trench which will extend nearly 1,800 feet northwest from the controller box.

At post mile 38.30, a pair of manual traffic count stations will involve sensors installed across the northbound off ramp and the southbound on ramp. The pair of count stations will include sensors across both ramps terminating in pull boxes and a controller box located within and just beyond the gravel covered shoulder backing. Small excavations for the setting of the pull boxes and controller boxes will be required, however, these count stations will not be connected to an existing power source.

At post mile 38.45, a pair of manual traffic count stations will involve sensors installed across the northbound on ramp and the southbound off ramp. The pair of count stations will include sensors across both ramps terminating in pull boxes and a controller box located within and just beyond the gravel covered shoulder backing. Small excavations for the setting of the pull boxes and controller boxes will be required; however, these count stations will not be connected to an existing power source.

New Street Lighting Installation

A pair of new street lights will be installed within the ruderal portion of the right-of-way beyond the shoulder backing to illuminate the northbound and southbound roadways at about post mile 38.15 (just south of the Kamm Avenue overcrossing). Another pair of new streetlights will be similarly installed at about post mile 38.60 (just north of the Kamm Avenue overcrossing). Both pair will be connected by wires installed beneath the northbound and southbound roadways to already existing power sources which exist underground, northwest and southeast of the intersection. To minimize take of the Covered Species, the Covered Activities at these Work Areas will include efforts to salvage and relocate individuals of the Covered Species and temporarily exclude the species while work is being conducted.

Culvert Replacement/Rehabilitation

Fifteen existing culverts will be rehabilitated to extend their functionality. Work at the eleven culverts which convey streams will be done in compliance with the Streambed Alteration Agreement (Notification No. EPIMS-FRE-17350-R4) issued by CDFW for the culvert work.

The ten existing corrugated metal pipe culverts near post mile 37.50, 37.68, 37.94, 38.00, 38.97, 39.02, 39.24, 39.61, 39.75, and 40.05 will be lined with either a pre-fabricated hard (HDPE, PVC, or similar) pipe placed in sections; or a flexible cured-in-place corrosion resistant polyester-, vinyl-, ester-, or epoxy-resin pipeline material. Prior to placement of the

liner, the existing culvert will be cleaned of accumulated sediment and debris, and if the culvert is lined with the hard pipe sections, the sections will be placed and joined, and the annular space between the liner and the existing culvert (as well as voids in the existing culvert wall) will be filled with a grout/slurry material pumped or gravity fed through a hose or pipe. If the culvert is lined with the flexible pipeline material, it will be pulled through the culvert, inflated, cured-in-place with heat, then trimmed at the ends of the culvert. No more than one-half cubic yard of accumulated sediment, within six feet of the culvert inlet and the culvert outlet will be removed by hand crews using hand tools or mechanically using excavation equipment.

An eleventh existing corrugated metal pipe culvert exists as two segments near post mile 38.25. The longer 211-foot-long section will be similarly lined, while the flared end section and upstream three feet of the 131-foot-long section will be replaced in-kind. Replacement of the flared end section and three feet of culvert will involve cutting the overlying pavement and overexcavating that segment of culvert and flared end section. This will result in an approximately five-foot long, four-foot-wide trench the depth of which will be determined by the floor of the culvert. The culvert will then be cut with a torch or by mechanical means and both the three-foot segment of culvert and flared end section will be removed. A new three-foot segment of metal pipe culvert will be placed, joined by welding, and fitted with a new flared end section and buried. Excavated soils will be used to prepare the roadbase and the cut pavement will be patched. No more than one-half cubic yard of accumulated soil will be removed from within six feet of the overall culvert inlet and the overall culvert outlet. To minimize take of the Covered Species, the Covered Activities at this Work Area will include efforts to salvage and relocate individuals of the Covered Species and temporarily exclude the species while work is being conducted.

A twelfth existing corrugated metal pipe culvert also exists as two segments near post mile 38.29. Both segments will be similarly lined, and the flared end sections at both culverts will be either: 1) fitted with steel trash rack grates, or 2) relaced with cast-in-place six-foot-wide by six-foot-tall by one-foot-thick Portland concrete cement headwalls with integrated trash rack grates. Additionally, no more than one-half cubic yard of accumulated soil will be removed from within six feet of the overall culvert inlet and the overall culvert outlet. If the flared end sections at both culverts are fitted with steel trash rack grates, the accumulated sediment will be removed by hand crews using hand tools or mechanically using excavation equipment. If the flared end sections are removed and replaced with new headwalls, the Covered Activities at this Work Area will include efforts to salvage and relocate individuals of the Covered Species and temporarily exclude the species while work is being conducted to minimize take of the Covered Species.

A thirteenth existing corrugated metal pipe culvert also exists as two segments near post mile 38.40. Both segments will be similarly lined, and the appurtenant flared end sections of each will be replaced, in kind. This culvert does not convey a stream and is not subject to the companion Streambed Alteration Agreement. To minimize take of the Covered Species, the

Covered Activities at this Work Area will include efforts to salvage and relocate individuals of the Covered Species and temporarily exclude the species while work is being conducted.

A fourteenth culvert exists near post mile 38.82. Work at this concrete cement box culvert will be limited to the removal of significant amounts of sediment which have accumulated upstream, downstream, and within the culvert. Using hand crews and equipment, approximately 161 cubic yards of accumulated sediment will be removed from within the culvert, and no more than a total of 25 cubic yards will be removed from the stream bed immediately upstream (within 30 feet of the culvert inlet) and downstream (within 31 feet of the culvert outlet) of the culvert. This sediment removal will be accomplished using heavy equipment and will be hauled off-site. To minimize take of the Covered Species, the Covered Activities at this Work Area will include efforts to salvage and relocate individuals of the Covered Species and temporarily exclude the species while work is being conducted.

A fifteenth existing corrugated metal pipe culvert exists near post mile 39.96. Five feet of the existing 88-foot long, 30-inch diameter corrugated metal pipe culvert will be replaced along with the associated flared end section. Replacement of the flared end section and five feet of culvert will involve cutting the overlying pavement and overexcavating that segment of culvert and flared end section. This will result in an approximately seven-foot long, four-foot-wide trench the depth of which will be determined by the floor of the culvert. The culvert will then be cut with a torch or by mechanical means and both the five-foot segment of culvert and flared end section will be removed. A new five-foot segment of metal pipe culvert will be placed, joined by welding, and fitted with a new flared end section and buried. Excavated soils will be used to prepare the roadbase and the cut pavement will be patched. No more than one-half cubic yard of accumulated sediment will be removed from the streambed immediately downstream of the flared end section. To minimize take of the Covered Species, the Covered Activities at this Work Area will include efforts to salvage and relocate individuals of the Covered Species and temporarily exclude the species while work is being conducted.

The Project will involve minor vegetation removal. While most of the Covered Activities will be accomplished during daylight hours, a maximum of 6 nights of work at each of the 20 discreet Work Areas may be required to prevent roadway closures, the night work will involve the use of artificial lighting. Work within the 11 streams will occur while the streams are naturally dry and under Streambed Alteration Agreement (EPIMS-FRE-17350-R4), issued by CDFW.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

| Name | CESA Status |
|---|-------------------------|
| 1. San Joaquin antelope squirrel (<i>Ammospermophilis nelsoni</i>) (SJAS) | Threatened ⁴ |

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

Impacts of the Taking on Covered Species:

The three-mile segment of SR 5 which, constitutes the Project Area, is bound by alkali scrub and annual grasslands on both the east and west sides. During pre-project species surveys in June 2019, three individuals of the Covered species were detected along the west boundary (adjacent to the southbound travel lanes) of the Project Area and none were detected along the east boundary (adjacent to the northbound travel lanes). This appears to reflect the observable difference in habitat quality related to fragmentation as the habitat which adjoins the southbound travel lanes is contiguous to other habitat areas, while the habitat which adjoins the northbound travel lanes is fragmented by SR 5 and with agricultural development.

The Covered Activities could result in incidental take of individuals of the Covered Species over the entire Project Area, however, take is most likely to occur in association with the Covered Activities at those discreet Work Areas where the Covered Activities involve ground disturbance (excavation, trenching, etc.).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur within the Project Area in association with the collapse or excavation of occupied burrows that result in crushing or suffocation of underground individuals during cut/fill, grading, and compaction; entombment of individuals from deposition of stockpiled material or spoils over occupied burrows and during vegetation removal, top soil work, or soil compaction; entrapment and burial within excavations or trenches; crushing by equipment; and vehicle strikes due to increased Project-related traffic. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursuit and/or capture through: entrapment in holes or open trenches; uncovering individuals during the excavation of burrow systems; corralling individuals into a confined area when exclusion fencing is constructed around the discrete Work Areas, and when individuals of the Covered Species are captured, collected, and relocated or translocated out of harm's way as required by this ITP. In addition, indirect take of individuals of the Covered Species could result from artificial lighting, mimicking daylight and extending hours of brightness extending Covered Species above-ground activity and increasing predation risk.

⁴See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(6)(B).

Table 1, below, summarizes the areas of Project-related temporary and permanent impact where take of the Covered Species could occur at each of the 20 Project Work Areas.

| TABLE 1 AREA OF PROJECT-RELATED IMPACTS BY WORK AREA | | | |
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| WORK AREA | PERMANT LOSS OF COVERED SPECIES HABITAT | TEMPORARY DISTURBANCE OF SUITABLE COVERED SPECIES HABITAT (WEST OF ROADWAY) | TEMPORARY DISTURBANCE OF MARGINALLY SUITABLE COVERED SPECIES HABITAT (EAST OF ROADWAY) |
| culvert rehabilitation work near post mile 37.50 | | 0.3516 acres | 0.3886 acres |
| culvert rehabilitation work near post mile 37.68 | | | 0.1102 acres |
| culvert rehabilitation work near post mile 37.94 | | 0.2746 acres | 0.3057 acres |
| culvert rehabilitation work near post mile 38.00 | | 0.1449 acres | 0.1661 acres |
| culvert rehabilitation work overlapping disturbance associated with new street light installation work and traffic count station installation work between post mile 38.10 and the Kamm Avenue overcrossing | | 0.4123 acres | 1.9225 acres |
| culvert rehabilitation work (including new headwalls) near post mile 38.29 | 0.0022 acres | 0.4209 acres | |
| culvert rehabilitation work overlapping disturbance associated with new street light installation work and traffic count station installation work between post mile 38.6 and the Kamm Avenue overcrossing | | 1.0585 acres | 0.1730 acres |
| culvert rehabilitation work near post mile 38.82 | | 0.1914 acres | 0.1807 acres |
| culvert rehabilitation work near post mile 38.97 | | 0.1347 acres | 0.1141 acres |
| culvert rehabilitation work near post mile 39.02 | | 0.1106 acres | 0.1074 acres |
| culvert rehabilitation work near post mile 39.24 | | 0.0992 acres | |
| culvert rehabilitation work near post mile 39.61 | | 0.0997 acres | 0.1182 acres |
| culvert rehabilitation work near post mile 39.75 | | 0.0997 acres | 0.1182 acres |
| culvert rehabilitation work near post mile 39.96 | | | 0.0992 acres |
| culvert rehabilitation work near post mile 40.05 | | 0.0997 acres | 0.1182 acres |
| total acres | 0.0022 acres | 3.4978 acres | 3.9221 acres |

The Project is expected to result in take as a result of the Project-related **permanent** loss of approximately 0.0022 acres (96 square feet) of Covered Species habitat. The Project is also expected to result in take as a result of the Project-related **temporary** disturbance of approximately 3.4978 acres of suitable Covered Species habitat and 3.9221 acres of marginally suitable Covered Species habitat. Additionally, take of individuals of the Covered Species will occur as a result of direct and indirect impacts associated with the Covered Activities including: noise and vibrations from trenching, excavation, heavy equipment operation, and increased traffic; the novel stimulus resulting from nightwork and artificial lighting; implementation of the Covered Species Mortality Reduction and Relocation Plan as required under this ITP; stress through disorientation; loss of foraging opportunities; and loss

of breeding and burrowing habitat used for shelter, reproduction, and escape cover; and long-term effects due to increased pollution; displacement from preferred habitat; increased competition for food and space, introduction or spread of invasive species; changes in drainage patterns that favor different vegetative growth; and/or increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

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

Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area. 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.: 2020070309) adopted by California Department of Transportation on November 2, 2020, as lead agency for the larger Panoche Capital Preventative Maintenance project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (**Notification No. EPIMS-FRE-17350-R4**) 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 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, natural history, collecting and handling 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.
- 5.3. Designated Biologist Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 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 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. 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.

- 5.5.** Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project Area 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 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.
- 5.8.** Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other wildlife, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 5.9.** Delineation of Discreet Work Area Boundaries. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the discreet Work Areas with fencing, stakes, or flags. A Work Area is defined as the discreet portion of the Project Area undergoing active ground or vegetation disturbance at any point in time. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged Work Areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that Work Area.
- 5.10.** Project Access. Project-related personnel 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. 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.
- 5.11.** 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 absent of

small mammal burrows. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the Project Area.

- 5.12. 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.
- 5.13. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project Area and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.14. 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 and document compliance with all pre-Project Conditions of Approval at least 14 days before starting Covered Activities.
- 6.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 6.3. SJAS Mortality Reduction and Relocation Plan. The Permittee shall submit a SJAS Mortality Reduction and Relocation Plan (Relocation Plan) to CDFW for approval at least 14 days prior to initiating Covered Activities. The Relocation Plan shall include, but not be limited to, a specific plan for trapping individuals of the Covered Species at each discreet Work Area (or portion thereof) where ground disturbance will involve excavation, trenching, or grading, a map of the proposed site for relocation/release of trapped individuals of the Covered Species, burrow excavation methods, release methods (i.e., soft release, hard release, or some other method), artificial burrow design and installation, and identification of a wildlife rehabilitation center or veterinary facility where injured individuals of the

Covered Species will be treated. Trapping and relocation activities shall not proceed until the Relocation Plan has been approved in writing by CDFW's Regional Representative. The Relocation Plan shall include a minimum of six consecutive days of trapping and shall end with three consecutive days without capture of SJAS, during the optimal activity period (April 1 – September 30) and during the optimal active temperature range (68° F - 86° F). Once the Relocation Plan is approved by CDFW, it may be used for all SJAS relocation activities for the duration of this ITP. Any proposed changes to the approved Relocation Plan shall be submitted in writing to CDFW and shall be approved by CDFW in writing prior to implementation of any proposed Relocation Plan modifications.

- 6.4. Covered Species Exclusion Fence Plan.** Permittee shall also submit a Covered Species Exclusion Fence Plan (Fence Plan) to CDFW for approval at least 14 days prior to initiating Covered Activities. The Fence Plan shall include a description of the fencing design for each discreet Work Area (or portion thereof) where Covered Activities will involve excavation, trenching, or grading. The Fence Plan shall also include a description of the fencing material, a description of the fencing installation/removal methods, proposed fencing maintenance, and a discussion of the location of any openings in the fencing. The Fence Plan shall include a proposal to extend at least 50 feet past the ends of the discreet Work Areas and taper back away from the roadway or terminate with a turn-around. The Fence Plan shall indicate that the Designated Biologist will supervise all fence installation methods (e.g., fence-line grubbing, trenching, construction, etc.) to minimize potential impacts to Covered Species.
- 6.5. Compliance Monitoring.** The Designated Biologist(s) shall be at the Project Area **daily** and during all Covered Activities until all of the following items are completed: Pre-construction Surveys (as required in accordance with Condition of Approval 7.1); SJAS burrow flagging (as required in accordance with Condition of Approval 7.2); Covered Species exclusion fencing installation (as required in accordance with Condition of Approval 7.3); SJAS trapping work (as required in accordance with Condition of Approval 7.4) ; SJAS burrow excavation work (as required in accordance with Condition 7.5); and the initial ground disturbance at each discreet Work Area. The Designated Biologist shall conduct these daily compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of the Covered 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 within the Project Area covered by this ITP. After the implementation of Conditions of Approval 7.1 through 7.5 and all initial ground disturbance has been completed, the Designated Biologist(s) shall be at the Project Area at least once **weekly** to conduct compliance inspections. The Designated Representative or Designated

Biologist(s) shall prepare daily/weekly written observations 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.

- 6.6. Covered Species Observations.** During all Covered Activities, all workers shall inform the Designated Biologist(s) if individuals of the Covered Species are observed within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease until the Covered Species moves from the Project Area of its own volition, or is moved by the Designated Biologist(s).
- 6.7. Quarterly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.5 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. 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, Regional Office and Headquarters CESA Program no later than the 5th day of the month it is due. At the time of this ITP's approval, the CDFW Regional Representative is Steven Hulbert (Steven.Hulbert@wildlife.ca.gov), the Regional Office email is R4CESA@wildlife.ca.gov and the 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.
- 6.8. 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 6.7; (2) a general description of the status of the Project 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-related 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.

- 6.9. 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.
- 6.10. 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-related 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.
- 6.11. Notification of Take or Injury.** Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005 or emailing CDFW's Regional Representative (see below). 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. Pre-Construction Survey.** Prior to any ground disturbance within each discreet Work Area, the Designated Biologist(s) shall visually survey that discreet Work Area: plus a 50-foot buffer for potential SJAS burrows. Permittee shall provide the Pre-Construction Survey results in a written report to CDFW's Regional Representative at least seven (7) days prior to the beginning of Covered Activities. The Pre-Construction Survey report shall include, but not be limited to, methodology, date and time of survey, and a discussion and map of the locations of each potential SJAS burrow.
- 7.2. SJAS Burrow Flagging and Avoidance During Shoulder Backing Replenishment.** All potentially suitable SJAS burrow openings within the gravel covered shoulder backing areas will be flagged so that the filling of those burrow openings can be avoided during the replenishment activities. During replenishment activities, those flagged burrow openings will be temporarily (for no more than two hours total) covered with a small (approximately 12-inch in diameter) wooden or plastic disk by hand crews on foot. Once the shoulder backing in the vicinity of the flagged/covered burrow opening has been replenished, the flag and object used to cover the opening will be immediately removed. Alternatively, the shoulder backing covering in the immediate vicinity of suitable Covered Species burrow opening may be replenished by hand crews using hand tools to avoid impacting the burrow opening.
- 7.3. Covered Species Exclusion Fencing.** Exclusion fencing shall be installed in accordance with the CDFW-approved Covered Species Exclusion Fence Plan (described in Condition of Approval 6.4). This fence may also serve to delimit the discreet Work Area Boundaries as required under Condition of Approval 5.9. The exclusion fence shall be installed to help prevent movement of the Covered Species into the discreet Work Area once ground- or vegetation-disturbing activities commence. At those Work Areas (or portions thereof) where individuals of the Covered Species will be excluded, Permittee shall place exclusion fence at the edge of the Work Area. The Designated Biologist shall supervise all fence installation methods (e.g., fence-line grubbing, trenching, construction, etc.) to minimize potential impacts to the Covered Species. The exclusion fence shall be supported sufficiently to maintain its integrity under all conditions, such as wind and heavy rain, for the duration of the active construction period. Exclusion fence may be keyed six to eight inches into the ground or alternatively a minimum of 12 inches of fence laid outward and flat on the ground securely fastened near the fence base and along the entire fence edge may be used to deter the Covered Species in the adjacent areas from digging under and entering the discreet Work Area. The exclusion fence shall be constructed of tightly woven material that prevents climbing and entrapment of any species.

- 7.4. SJAS Trapping.** At those discreet Work Areas where Covered Activities will involve ground disturbance (excavation, trenching, grading, etc.), all flagged SJAS burrows that cannot be avoided shall be live trapped by the Designated Biologist(s) prior to the initiation of ground-disturbing Covered Activities (excluding exclusion fence installation) to minimize direct mortality. The trapping shall occur consistent with the CDFW-approved Relocation Plan required in Condition of Approval 6.3. Any captured SJAS shall be relocated to a CDFW approved release site identified in the CDFW approved Relocation Plan. The Designated Biologist(s) shall submit a report of the trapping/relocation effort to CDFW at least five business days prior to commencement of Covered Activities.
- 7.5. SJAS Burrow Excavation.** Following live trapping activities, the Designated Biologist shall perform the excavation by hand of the flagged small mammal burrows. The Designated Biologist shall ensure that any SJAS encountered in the excavated burrows are captured and relocated in accordance with the approved Relocation Plan (Condition of Approval 6.3).
- 7.6. Daily Entrapment Inspections.** The Designated Biologist(s) or Biological Monitor(s) shall inspect all open holes, sumps, and trenches at each discreet Work Area at the beginning and end of each day for trapped animals. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degrees) slope and that are up to six feet deep shall be covered when workers or equipment are not actively working in the excavation, which includes cessation of work overnight, or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. All trenches, holes, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and greater than six feet deep shall be covered when workers or equipment are not actively working in the excavation and at the end of each work day. To prevent inadvertent entrapment of individuals of the Covered Species, the Designated Biologist(s) or Biological Monitor(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall: conform to solid ground so that gaps do not occur between the cover and the ground; and be secured with soil staples or similar means to prevent gaps. Each morning, end of each day (including weekends and any other non-work days), and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) or Biological Monitor(s) shall thoroughly inspect them for individuals of the Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. If any worker discovers that individuals of the

Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow the individuals of the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist(s) shall capture and relocate individual SJAS as per the MRRP described in Conditions of Approval 6.3.

- 7.7. Materials Inspection.** Workers shall thoroughly inspect for individuals of the Covered Species in all construction pipe, culverts, or similar structures with a diameter of two inches or greater that are stored for one or more overnight periods before the structure is subsequently moved, buried, or capped. If, during inspection, an individual of the Covered Species is discovered inside the structure, workers shall notify the Designated Biologist and allow the Covered Species to safely escape the structure before moving and utilizing the structure.
- 7.8. Equipment Inspection.** Workers shall thoroughly inspect for individuals of the Covered Species under vehicles and equipment before the vehicles and equipment are moved. If an individual of the Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location.
- 7.9. Covered Species Injury.** If a Covered Species is injured as a result of Covered Activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured individual of the Covered Species. The Permittee shall notify CDFW of the injury immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 6.11. Notification shall include the name of the facility where the animal was taken.
- 7.10. Record of Handling.** The Designated Biologist shall maintain a record of all Covered Species handled, and all documented observations of individuals of the Covered Species. This information shall include for each animal; (1) the locations (Global Positioning System (GPS) coordinates and maps) and time of capture and/or observation as well as release; (2) sex; (3) approximate age (adult / juvenile); (4) weight; (5) general condition and health, noting all visible conditions including gait and behavior, diarrhea, emaciation, salivation, hair loss, ectoparasites, and injuries; and (6) ambient temperature when handled and released. The Designated Biologist shall prepare a Relocation Summary and include it in the Quarterly Report described in Condition 6.7 of this ITP. The Relocation Summary in the Final Mitigation Report shall include cumulative results, analysis of data collected, and conclusions.

7.11. Habitat Restoration Plan. All temporarily impacted habitat (scrub and grasslands) within each discreet Work Area will be restored to pre-project conditions or better. Restoration will be assisted by re-seeding and/or replanting the temporarily impacted area(s). Re-seeding and/or replanting will be completed by November 15th of the year that the Covered Activities are completed and the temporarily impacted area(s) cannot remain disturbed for more than one (1) calendar year without undergoing restoration efforts. A Habitat Restoration Plan will include a seed mix and/or planting mix, methods to seed and/or plant, proposed success criteria, and a contingency plan if restoration efforts perform unsuccessfully. The Habitat Restoration Plan will be provided to CDFW for review and written approval prior to implementation of the Habitat Restoration Plan.

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

The Permittee shall either purchase 6.7 Covered Species credits from a CDFW-approved mitigation or conservation bank with a service area that encompasses the Project Area **OR** provide for both the permanent protection and perpetual management of 6.7 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3, below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4, below. The credit purchase **OR** permanent protection and funding of perpetual management of HM lands must be complete before starting Covered Activities, **OR** within 54 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9, below.

8.1 Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:

- 8.1.1 Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$1,609.50/acre for **6.7 acres: \$10,783.65.** Land acquisition costs are estimated using current and local fair market values for lands with habitat values meeting mitigation requirements, and include real estate and escrow fees;
- 8.1.2 Start-up costs for HM lands, including initial site protection and enhancement cost as described in Condition of Approval 8.3.5 below, estimated at **\$26,446.60.**

- 8.1.3 Interim management period funding as described in Conditional of Approval 8.3.6 below, estimated at **\$22,009.50**.
- 8.1.4 Long-term management funding as described in Condition of Approval 8.3.7 below, estimated at \$41,694.52/acre for 6.7 acres: **\$279,353.25**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implement of HM lands management.
- 8.1.5 Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transaction, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.5, estimated at **\$12,000.00**.

8.2 Covered Species Credits. Permittee shall purchase 6.7 SJAS credits from a CDFW-approved mitigation or conservation bank with a service area that encompasses the Project Area and provide proof of credit purchase to CDFW prior to commencement of Covered Activities, unless Security is provided in accordance with Condition of Approval 9 Security, below;

OR:

8.3 Habitat Acquisition and Protection. Permittee shall provide for the permanent protection and perpetual management of 6.7 acres of HM lands prior to commencement of Covered Activities, unless Security is provided in accordance with Condition of Approval 9 Security, below:

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

execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);

- 8.3.2 HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least one month before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2A) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on the Covered Species;
- 8.3.3 HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see checklist presented as Attachment 2B). 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;
- 8.3.4 Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;
- 8.3.5 Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates>) (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;
- 8.3.6 Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim

land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the landowner, 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.

- 8.4** Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 8.3, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 8.3.6. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

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

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

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

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

8.4.2.2.1 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

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

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

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

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

9. Performance Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 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 **\$350,593.00**. This amount is based on CDFW's estimate of the cost to purchase 6.7 SJAS credits, **or** the cost to acquire, permanently conserve, and perpetually manage 6.7 acres of

SJAS habitat (Condition of Approval 8.1, above) in the event credits are not available at a CDFW-approved mitigation or conservation bank.

- 9.2. Security Form.** The Security shall be transmitted to CDFW in a form approved in advance and 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.
- 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.** If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 3) or by way of an approved instrument such as escrow, 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 received a bill of sale evidencing the purchase of the 6.7 SJAS credits, or in the event HM lands are acquired, 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 credit purchase or acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 54 months from the effective date of this ITP. CDFW may require the Permittee purchase additional credits or purchase additional HM lands and/or provide additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

Amendment:

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

Stop-Work Order:

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

Compliance with Other Laws:

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

Notices:

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 (2081-2021-018-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Julie A. Vance, Regional Manager
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4005
RRR.R4@wildlife.ca.gov

Incidental Take Permit
No. 2081-2021-018-04-A1
CALIFORNIA DEPARTMENT OF TRANSPORTATION
STATE ROUTE 5 PANOCHÉ HILLS CAPITAL PREVENTATIVE MAINTENANCE PROJECT

and a copy to:

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

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

Mindy Trask
California Department of Fish and Wildlife
Region 4 Central
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 939-0282
mary.trask@wildlife.ca.gov

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, Caltrans. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Panoche Capital Preventative Maintenance Initial Study with Mitigated Negative Declaration (SCH No.: 2020070309) that Caltrans adopted for the larger capital maintenance project on November 2, 2020. 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.

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

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, the Panoche Capital Preventative Maintenance Project Initial Study with Mitigated Negative Declaration, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) 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 that 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 6.7 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being disturbed by the Project OR purchase of 6.7 SJAS credits from a CDFW approved mitigation or conservation bank, along with the minimization, monitoring, and reporting 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;

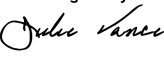
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; 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.

Attachments:

| | |
|---------------|---|
| FIGURE 1 | Project Area Map |
| FIGURE 2 | Project Work Areas Map (7 pages) |
| ATTACHMENT 1 | Amended Mitigation Monitoring and Reporting Program |
| ATTACHMENT 2A | Proposed Lands for Acquisition Form |
| ATTACHMENT 2B | Habitat Management Lands Checklist |
| ATTACHMENT 3 | Mitigation Payment Transmittal Form |
| ATTACHMENT 4 | Minor Amendment No. 1 with Red-Line Changes |

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 3/26/2024

DocuSigned by:

EA83E00EE08045A

Julie A. Vance, Regional Manager
Central Region

Incidental Take Permit
No. 2081-2021-018-04-A1
CALIFORNIA DEPARTMENT OF TRANSPORTATION
STATE ROUTE 5 PANOCHE HILLS CAPITAL PREVENTATIVE MAINTENANCE PROJECT

Figure 1

Figure 1
Department of Fish and Wildlife
Conservation Planning GIS
Central Region

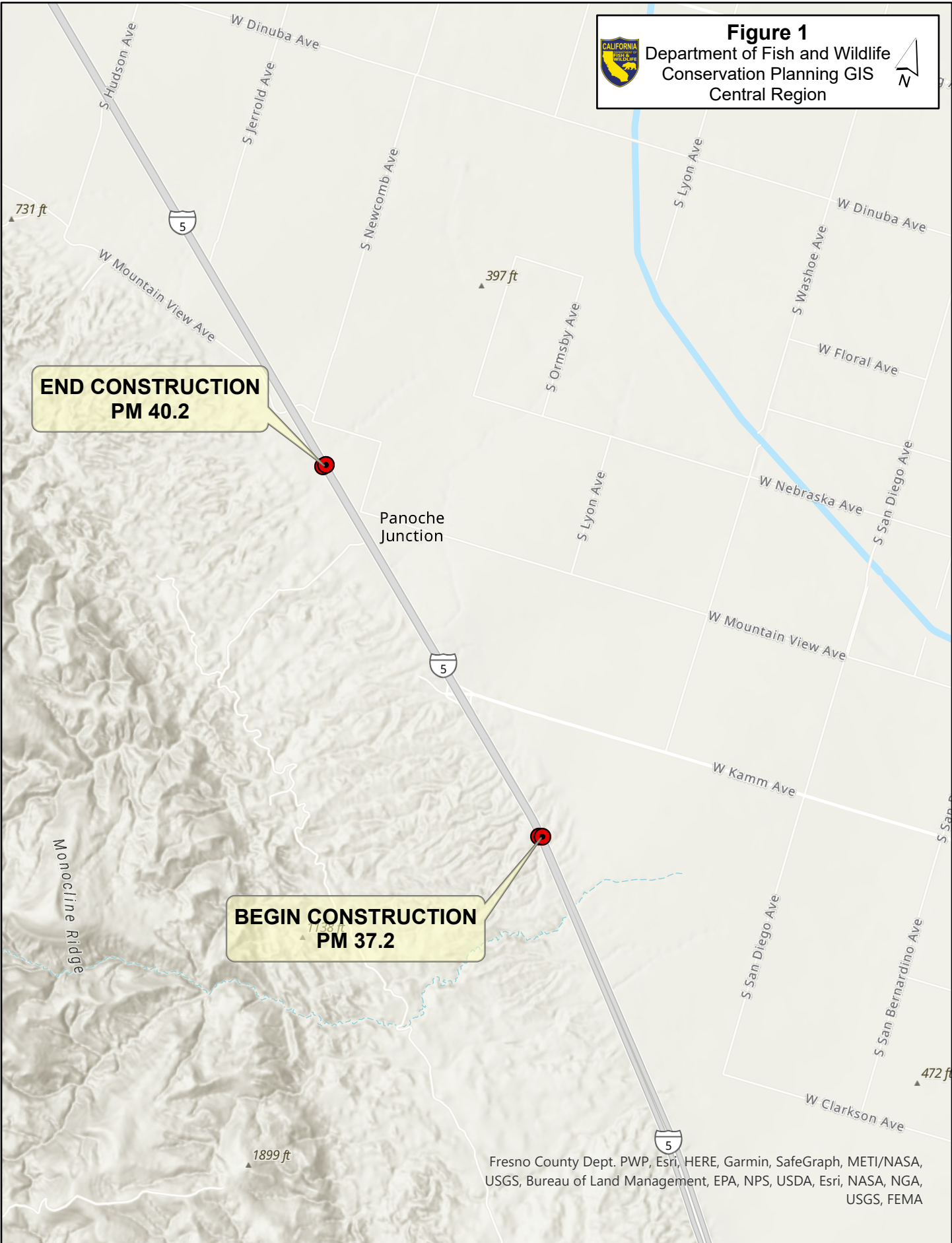
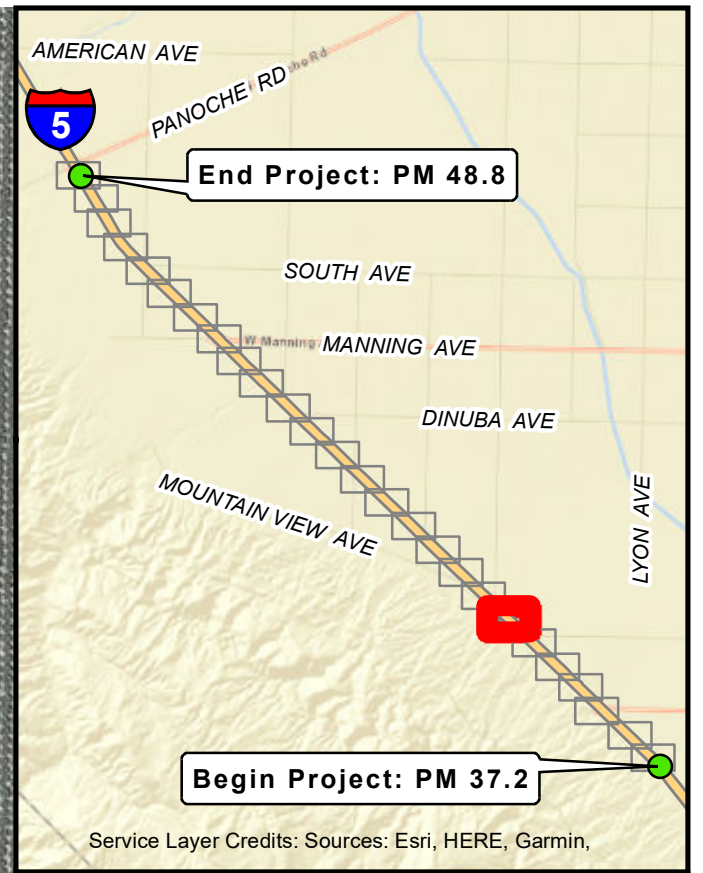
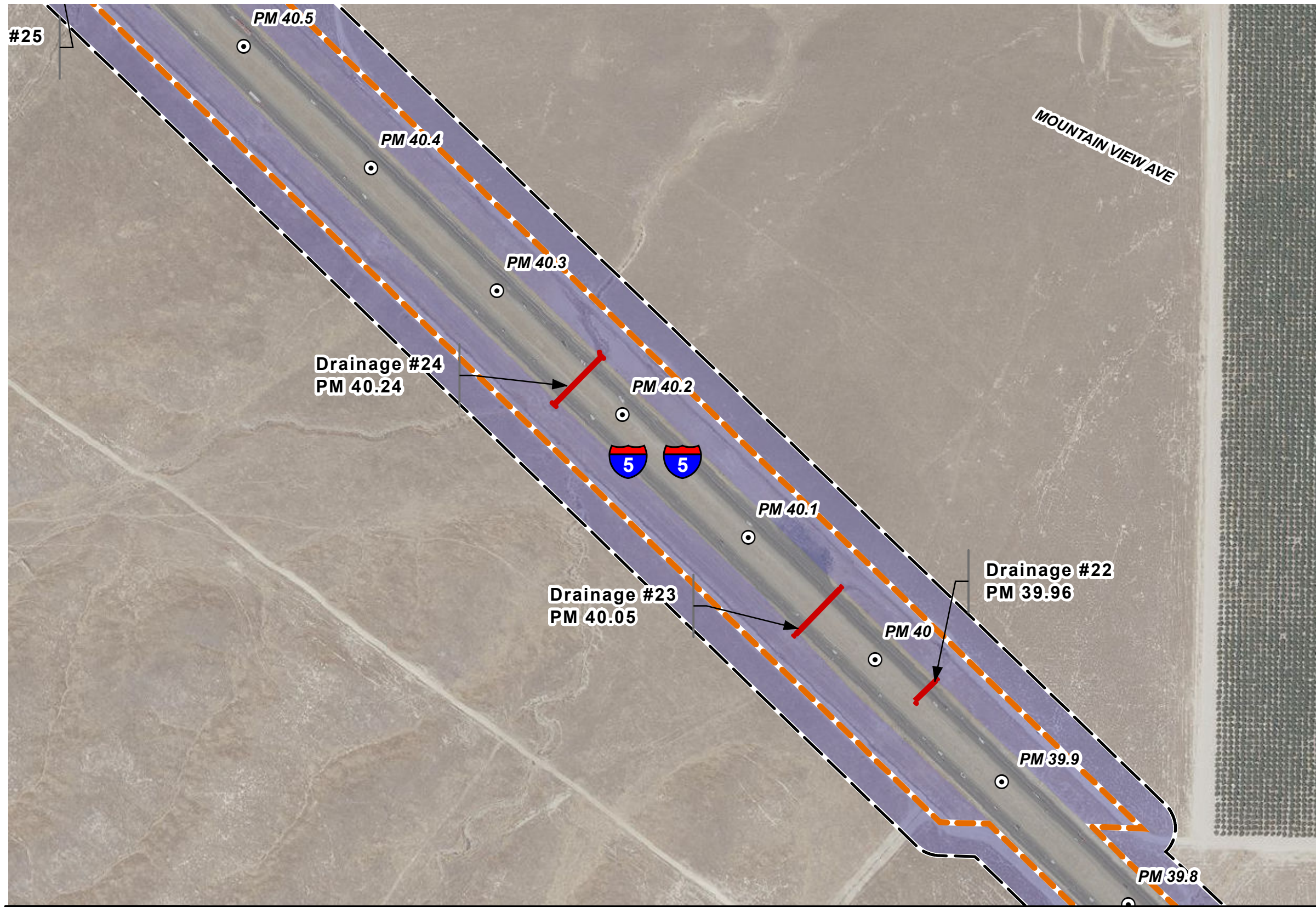


Figure 2

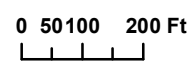


Legend

- ⊙ Postmiles
- Culverts
- - - Existing ROW
- Permanent Impacts
- ▨ Temporary Impact Area
- Action Area
- Electrical Modification



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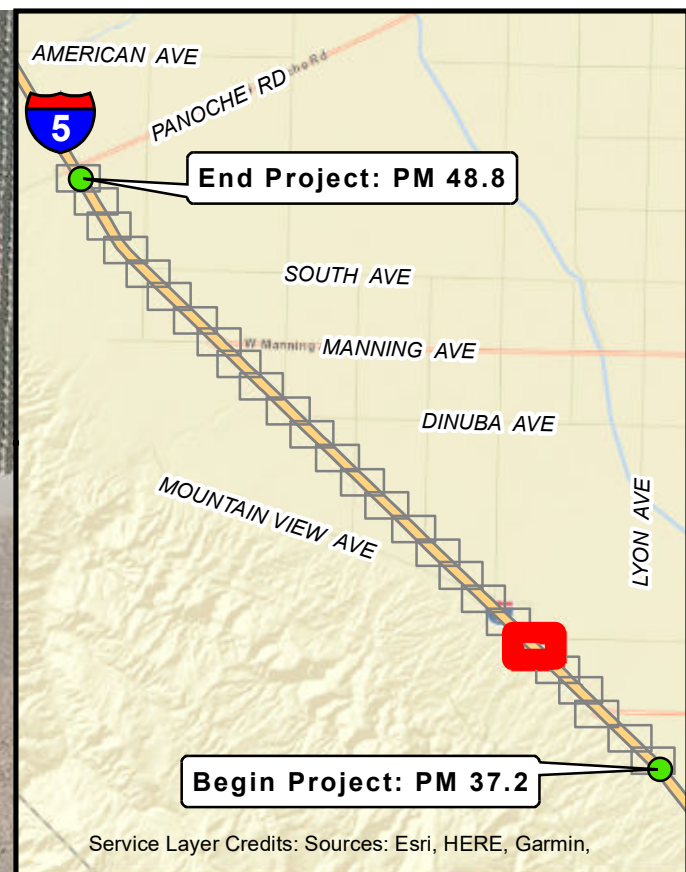


Great Valley Ecoregion (CDFW)

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|---|---|--|---|
| Alkali Desert Scrub | Annual Grassland | Coastal Scrub, Alkali Desert Scrub | Urban |
| Alkali Desert Scrub, Desert Scrub | Annual Grassland, Alkali Desert Scrub | Agriculture | |



Figure 2

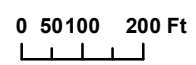


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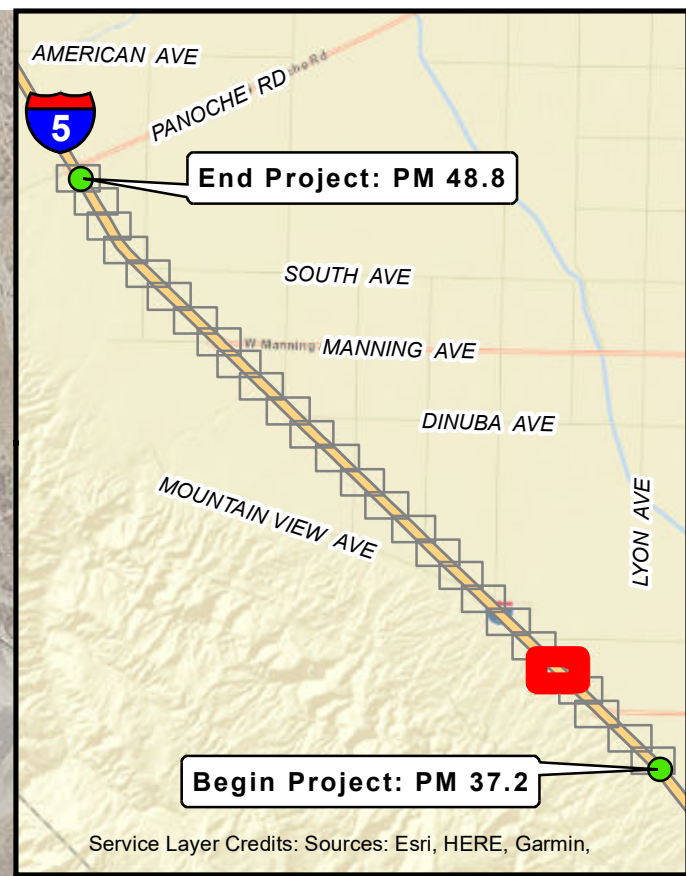
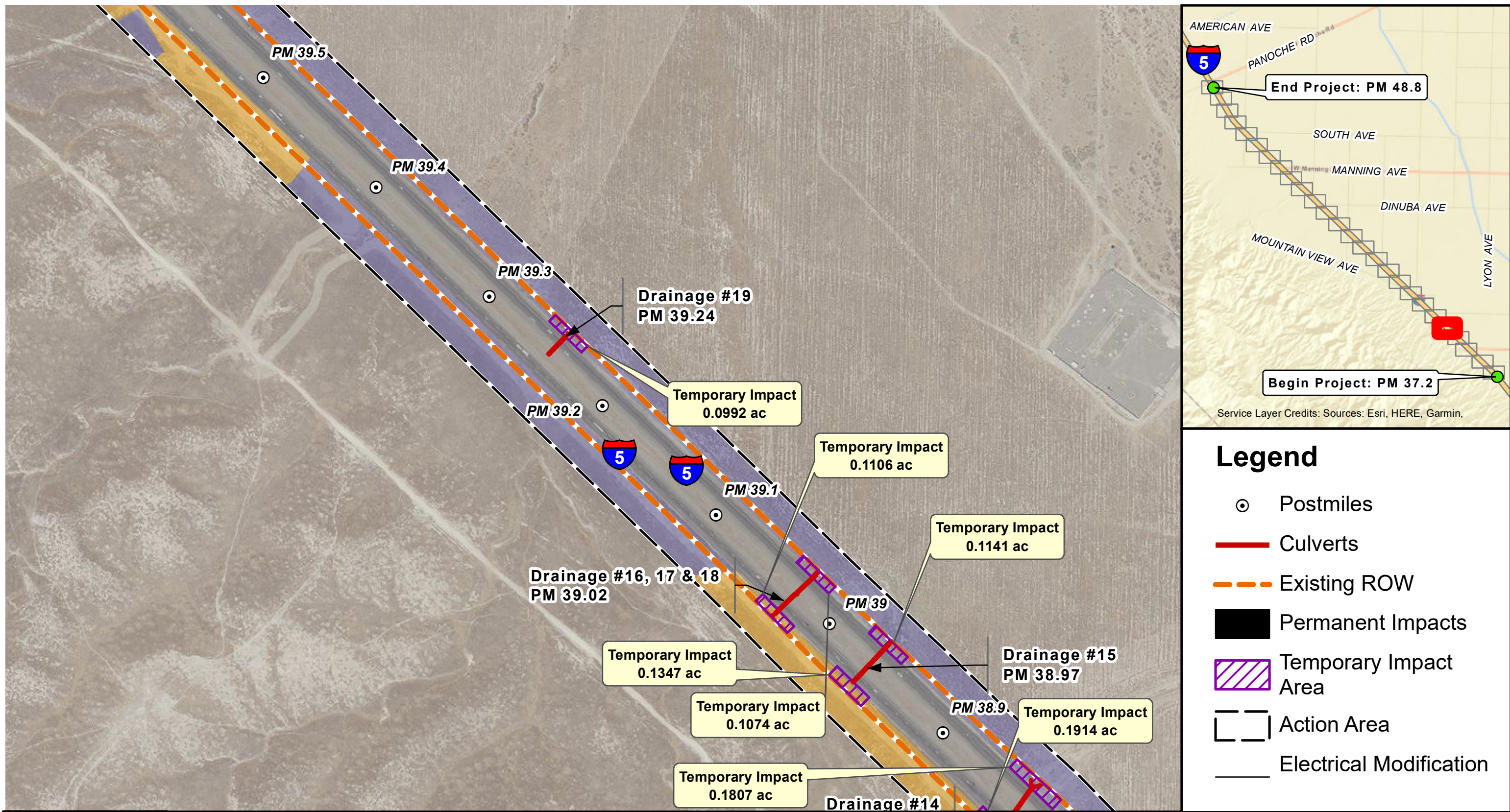


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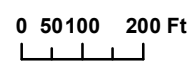


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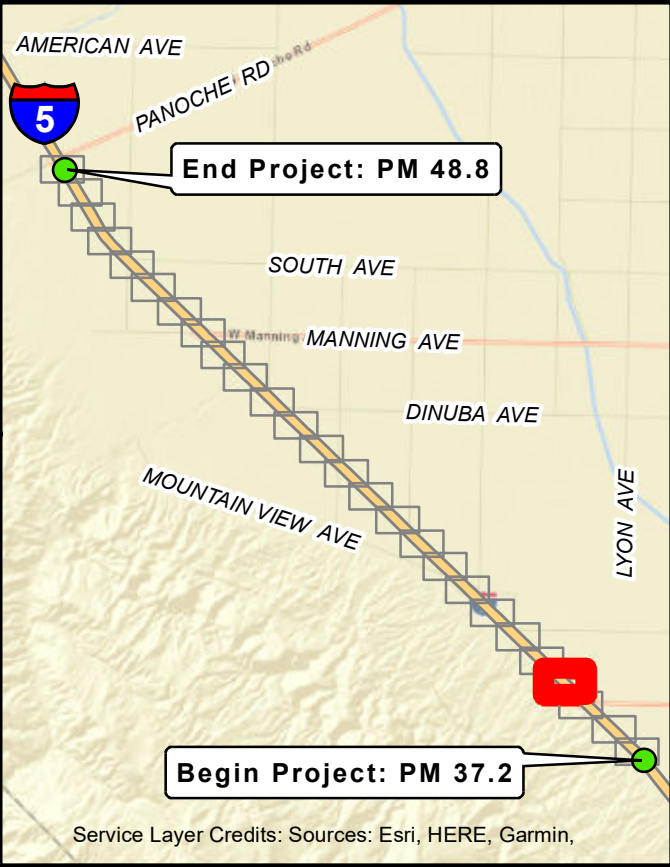
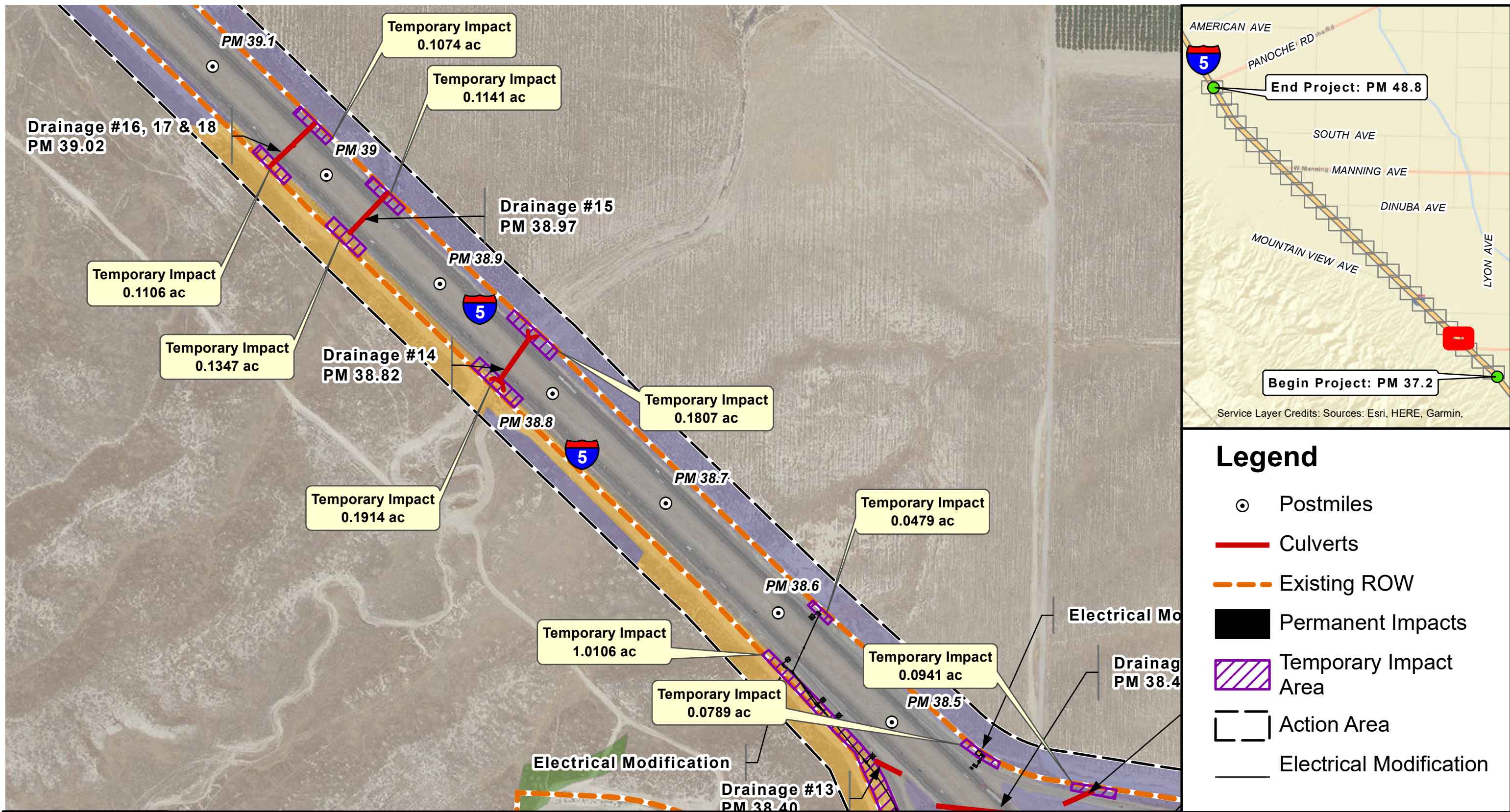


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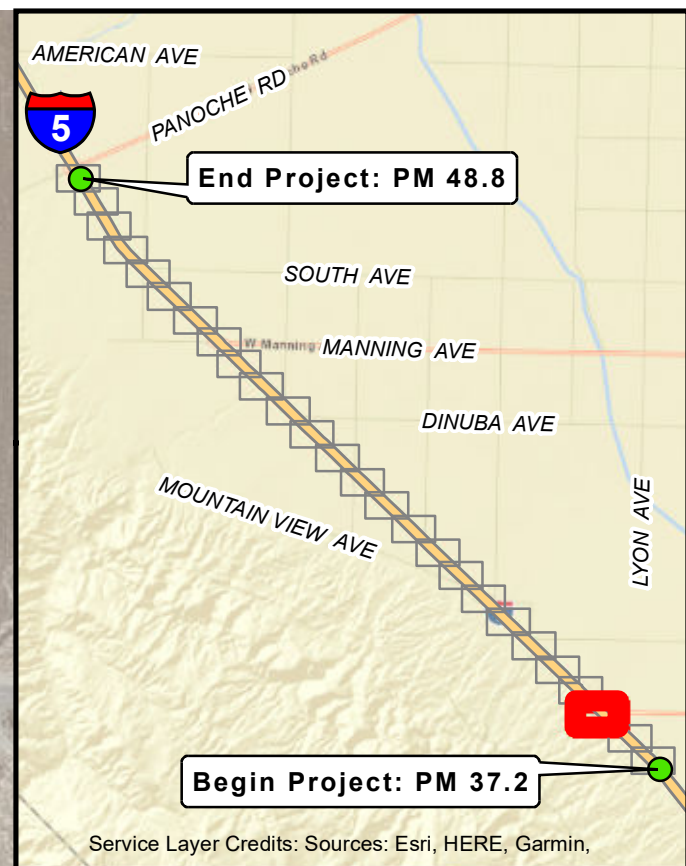
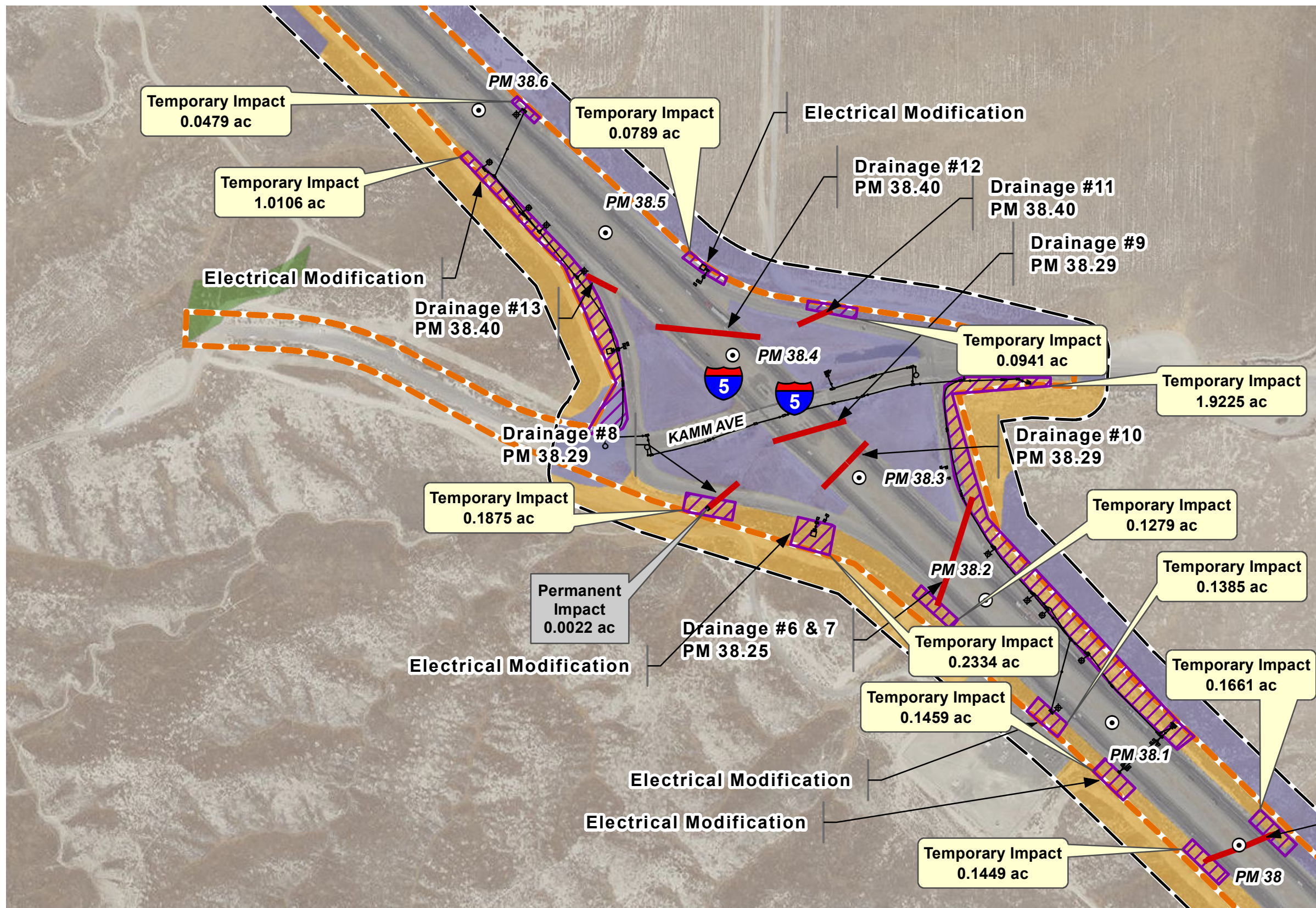
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Figure 2
Page 4 of 7

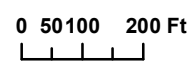


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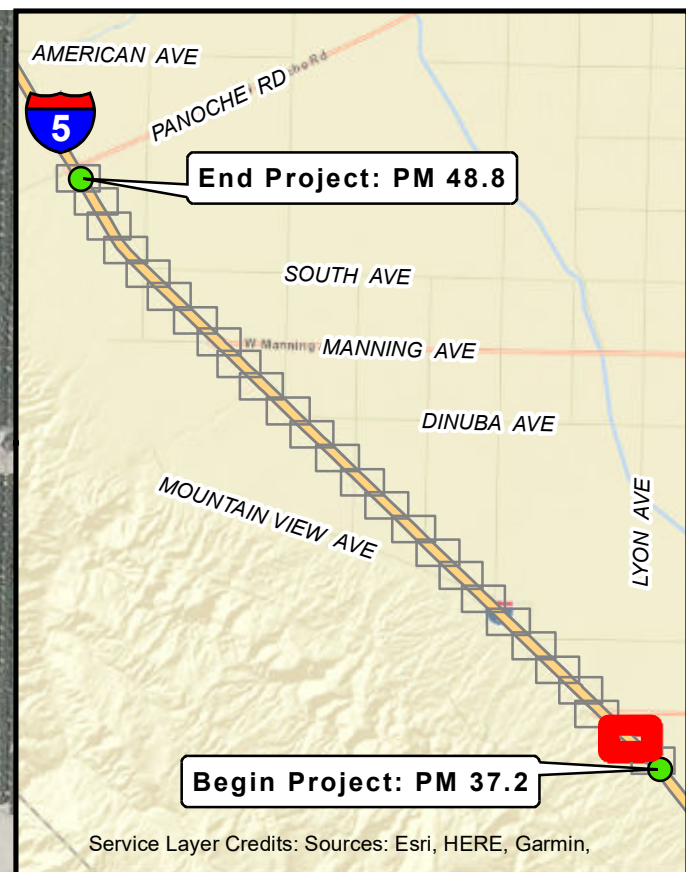
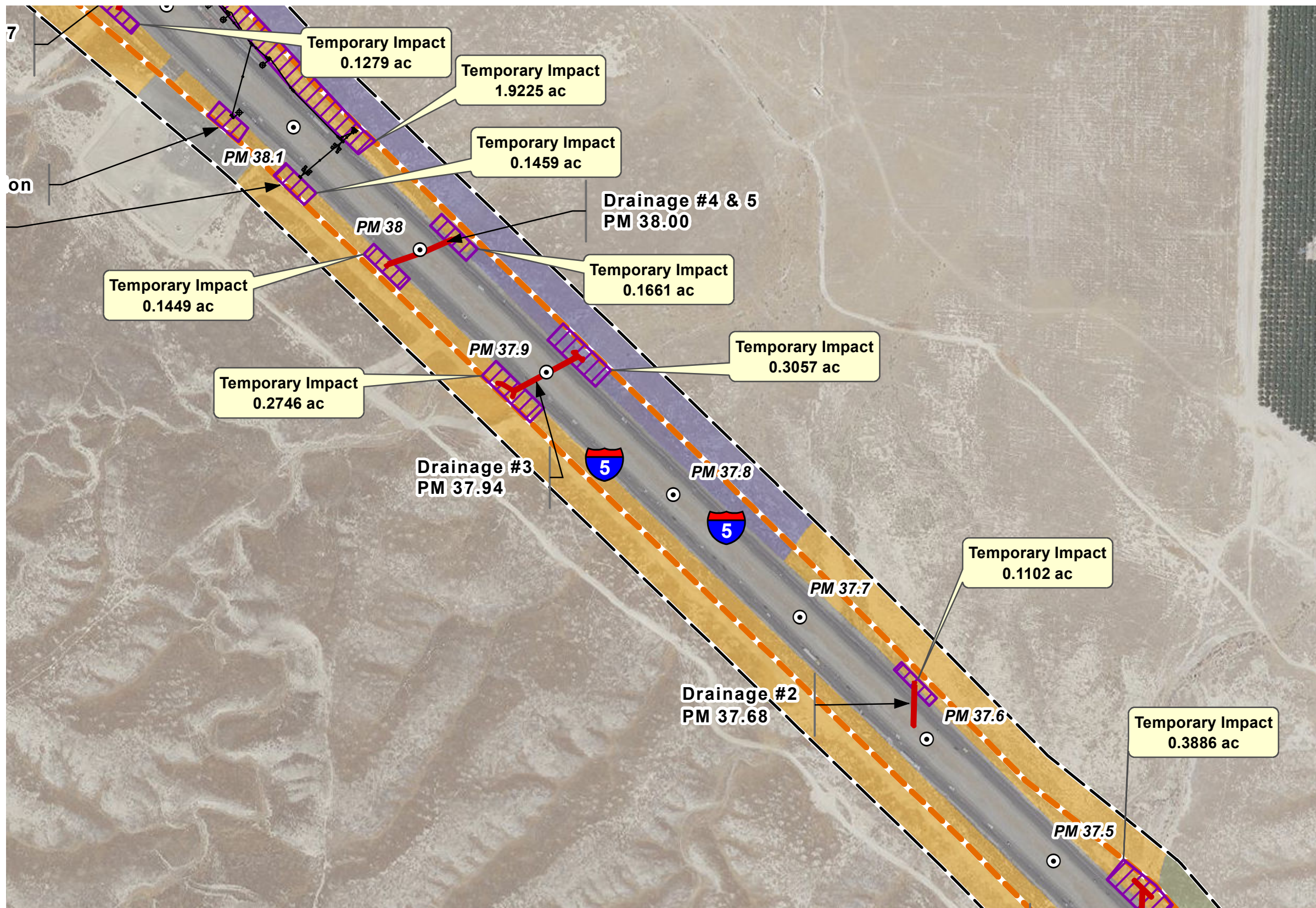


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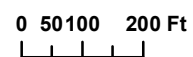


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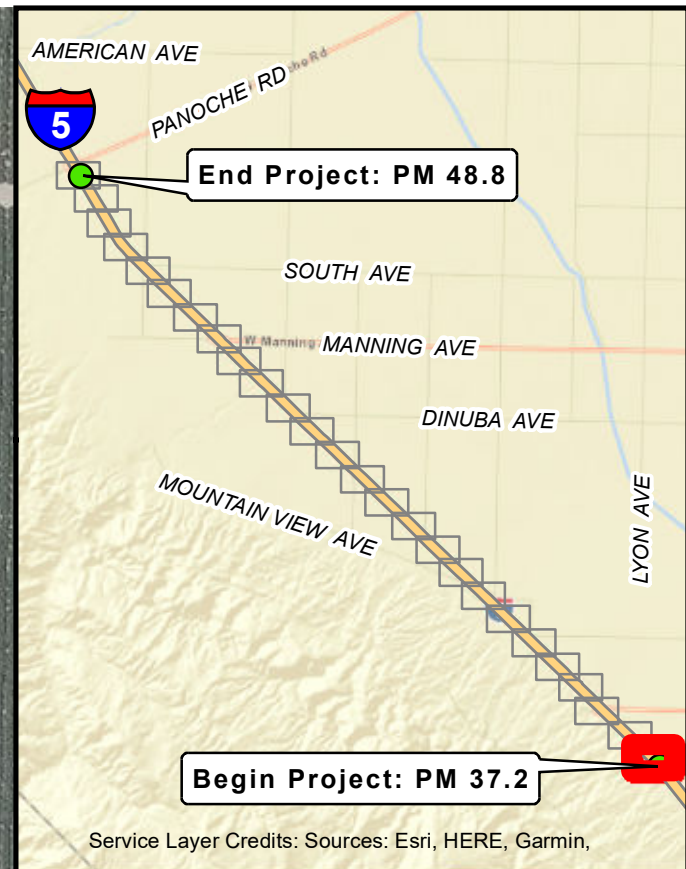


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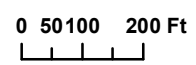


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Figure 2

Attachment 1

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2021-018-04 (Amendment No. 1)

PERMITTEE: California Department of Transportation

**PROJECT: State Route 5 Panoche Hills Capital Preventative
Maintenance Project**

PURPOSE OF THIS MMRP

The purpose of this 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 amended Incidental Take Permit (ITP) and in attachments to the ITP, and the omission of a permit requirement from the attached table does not relieve the Permittee of the obligation to ensure the requirement is performed.

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
|---|---|---------------------|---|-------------------|--------------------------|
| BEFORE DISTURBING SOIL OR VEGETATION | | | | | |
| 1 | <u>Designated Representative.</u> Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP. | ITP Condition # 5.1 | Before commencing Covered Activities/ Entire Project | Permittee | |
| 2 | <u>Designated Biologist.</u> 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, natural history, collecting and handling 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 | Before commencing Covered Activities/ Entire Project | Permittee | |
| 3 | <u>Education Program.</u> 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 to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. | ITP Condition # 5.4 | Before commencing Covered Activities/ Entire Project | Permittee | |
| 4 | <u>Trash Abatement.</u> Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. | ITP Condition # 5.6 | Before commencing Covered Activities/ Entire Project | Permittee | |
| 5 | <u>Dust Control.</u> Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. | ITP Condition # 5.7 | Before commencing Covered Activities/ Entire Project | Permittee | |
| 6 | <u>Delineation of Discreet Work Area Boundaries.</u> Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the discreet Work Areas with fencing, stakes, or flags. A Work Area is defined as the discreet portion of the Project Area undergoing active ground or vegetation disturbance at any point in time. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged Work Areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that Work Area. | ITP Condition # 5.9 | Before commencing Covered Activities/ Entire Project | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
|---|--|---------------------|--------------------------------------|--------------------------|---------------------------------|
| 7 | <u>Notification Before Commencement</u> . The Designated Representative shall notify CDFW and document compliance with all pre-Project Conditions of Approval at least 14 days before starting Covered Activities. | ITP Condition # 6.1 | Before commencing Covered Activities | Permittee | |
| 8 | <u>SJAS Mortality Reduction and Relocation Plan</u> . The Permittee shall submit a SJAS Mortality Reduction and Relocation Plan (Relocation Plan) to CDFW for approval at least 14 days prior to initiating Covered Activities. The Relocation Plan shall include, but not be limited to, a specific plan for trapping individuals of the Covered Species at each discreet Work Area (or portion thereof) where ground disturbance will involve excavation, trenching, or grading, a map of the proposed site for relocation/release of trapped individuals of the Covered Species, burrow excavation methods, release methods (i.e., soft release, hard release, or some other method), artificial burrow design and installation, and identification of a wildlife rehabilitation center or veterinary facility where injured individuals of the Covered Species will be treated. Trapping and relocation activities shall not proceed until the Relocation Plan has been approved in writing by CDFW's Regional Representative. The Relocation Plan shall include a minimum of six consecutive days of trapping and shall end with three consecutive days without capture of SJAS, during the optimal activity period (April 1 – September 30) and during the optimal active temperature range (68° F - 86° F). Once the Relocation Plan is approved by CDFW, it may be used for all SJAS relocation activities for the duration of the ITP. Any proposed changes to the approved Relocation Plan shall be submitted in writing to CDFW and shall be approved by CDFW in writing prior to implementation of any proposed Relocation Plan modifications. | ITP Condition # 6.3 | Before commencing Covered Activities | Permittee | |
| 9 | <u>Covered Species Exclusion Fence Plan</u> . Permittee shall also submit a Covered Species Exclusion Fence Plan (Fence Plan) to CDFW for approval at least 14 days prior to initiating Covered Activities. The Fence Plan shall include a description of the fencing design for each discreet Work Area (or portion thereof) where Covered Activities will involve excavation, trenching, or grading. The Fence Plan shall also include a description of the fencing material, a description of the fencing installation/removal methods, proposed fencing maintenance, and a discussion of the location of any openings in the fencing. The Fence Plan shall include a proposal to extend at least 50 feet past the ends of the discreet Work Areas and taper back away from the roadway or terminate with a turn-around. The Fence Plan shall indicate that the Designated Biologist will supervise all fence installation methods (e.g., fence-line grubbing, trenching, construction, etc.) to minimize potential impacts to Covered Species. | ITP Condition # 6.4 | Before commencing Covered Activities | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
|----|---|---------------------|---|--------------------------|---------------------------------|
| 10 | <p><u>Habitat Management Land Acquisition</u>: CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat at the Project Area, the extent to which the Covered Activities will impact that habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.</p> <p>The Permittee shall either purchase 6.7 Covered Species credits from a CDFW-approved mitigation or conservation bank with a service area that encompasses the Project Area OR provide for both the permanent protection and perpetual management of 6.7 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3, below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4, below. The credit purchase OR permanent protection and funding of perpetual management of HM lands must be complete before starting Covered Activities, OR within 54 months of the effective date of the ITP if Security is provided pursuant to Condition of Approval 9, below.</p> | ITP Condition # 8 | Before commencing Covered Activities (or within 54 months of the effective date of the ITP if security is provided) | Permittee | |
| 11 | <p><u>Cost Estimates</u>. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:</p> <p>8.1.1 Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$1,609.50/acre for 6.7 acres: \$10,783.65. Land acquisition costs are estimated using current and local fair market values for lands with habitat values meeting mitigation requirements, and include real estate and escrow fees;</p> <p>8.1.2 Start-up costs for HM lands, including initial site protection and enhancement cost as described in Condition of Approval 8.3.5 below, estimated at \$26,446.60.</p> <p>8.1.3 Interim management period funding as described in Conditional of Approval 8.3.6 below, estimated at \$22,009.50.</p> <p>8.1.4 Long-term management funding as described in Condition of Approval 8.3.7 below, estimated at \$41,694.52/acre for 6.7 acres: \$279,353.25. Long-term management funding is estimated initially for the purpose of providing Security to ensure implement of HM lands management.</p> <p>8.1.5 Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transaction, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.5, estimated at \$12,000.00.</p> | ITP Condition #8.1 | Before commencing Covered Activities (or within 54 months of the effective date of the ITP if security is provided) | Permittee | |
| 12 | <p><u>Covered Species Credits</u>. Permittee shall purchase 6.7 SJAS credits from a CDFW-approved mitigation or conservation bank with a service area that encompasses the Project Area and provide proof of credit purchase to CDFW prior to commencement of Covered Activities, unless Security is provided in accordance with Condition of Approval 9 Security, below;</p> <p>OR:</p> | ITP Condition # 8.2 | Before commencing Covered Activities (or within 54 months of the effective date of the ITP if security is provided) | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
|----|--|--------------------|---|--------------------------|---------------------------------|
| 13 | <p>Habitat Acquisition and Protection. Permittee shall provide for the permanent protection and perpetual management of 6.7 acres of HM lands prior to commencement of Covered Activities, unless Security is provided in accordance with Condition of Approval 9 Security, below:</p> <p>8.3.1 Fee Title/Conservation Easement. 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. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);</p> <p>8.3.2 HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least one month before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2A) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on the Covered Species;</p> <p>8.3.3 HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see checklist presented as Attachment 2B). 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;</p> <p>8.3.4 Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;</p> | ITP Condition #8.3 | Before commencing Covered Activities (or within 54 months of the effective date of the ITP if security is provided) | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
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| | <p>8.3.5 Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates) (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;</p> <p>8.3.6 Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the landowner, 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> | | | | |
| 14 | <p><u>Endowment Fund.</u> If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 8.3, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 8.3.6. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p> | ITP Condition # 8.4 | Before commencing Covered Activities (or within 54 months of the effective date of the ITP if security is provided) | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
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| 15 | <p>Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).</p> | ITP Condition # 8.4.1 | Before commencing Covered Activities (or within 54 months of the effective date of the ITP if security is provided) | Permittee | |
| 16 | <p>Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.</p> <p>8.4.2.1 Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.</p> <p>8.4.2.2 Endowment Buffers/Assumptions. Permittee shall include in the PAR assumptions for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <p>8.4.2.2.1 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</p> <p>8.4.2.2.2 Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>8.4.2.2.3 Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.</p> | ITP Condition # 8.4.2 | Before commencing Covered Activities (or within 54 months of the effective date of the ITP if security is provided) | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
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| 17 | <u>Transfer Long-term Endowment Funds.</u> Permittee shall transfer the long term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501 18510, as amended. | ITP Condition # 8.4.3 | Before commencing Covered Activities (or within 54 months of the effective date of the ITP if security is provided) | Permittee | |
| 18 | <u>Reimburse CDFW.</u> Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW. | ITP Condition # 8.5 | Before commencing Covered Activities (or within 54 months of the effective date of the ITP if security is provided) | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
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| 19 | <p>Performance Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <ol style="list-style-type: none"> 9.1. Security Amount. The Security shall be in the amount of \$350,593.00. This amount is based on CDFW's estimate of the cost to purchase 6.7 SJAS credits, or the cost to acquire, permanently conserve, and perpetually manage 6.7 acres of SJAS habitat (Condition of Approval 8.1, above) in the event credits are not available at a CDFW-approved mitigation or conservation bank. 9.2. Security Form. The Security shall be transmitted to CDFW in a form approved in advance and 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. 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. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 3) or by way of an approved instrument such as escrow, 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 the ITP 9.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after: CDFW has received a bill of sale evidencing the purchase of the 6.7 SJAS credits, or in the event HM lands are acquired, CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by: <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required credit purchase or acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 54 months from the effective date of the ITP. CDFW may require the Permittee purchase additional credits or purchase additional HM lands and/or provide 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 Covered Activities (or within 54 months of the effective date of the ITP if security is provided) | | |
| DURING CONSTRUCTION | | | | | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
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| 20 | <u>Designated Biologist Authority.</u> To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. | ITP Condition # 5.3 | Entire Project | Permittee | |
| 21 | <u>Construction Monitoring Notebook.</u> The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project Area upon request by CDFW. | ITP Condition # 5.5 | Entire Project | Permittee | |
| 22 | <u>Erosion Control Materials.</u> Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other wildlife, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat. | ITP Condition # 5.8 | Entire Project | Permittee | |
| 23 | <u>Project Access.</u> Project-related personnel 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. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification. | ITP Condition # 5.10 | Entire Project | Permittee | |
| 24 | <u>Staging Areas.</u> Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the Project Area. | ITP Condition # 5.11 | Entire Project | Permittee | |
| 25 | <u>Hazardous Waste.</u> Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site. | ITP Condition #5 .12 | Entire Project | Permittee | |
| 26 | <u>CDFW Access.</u> Permittee shall provide CDFW staff with reasonable access to the Project Area and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP. | ITP Condition # 5.13 | Entire Project | Permittee | |
| 27 | <u>Notification of Non-compliance.</u> The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours. | ITP Condition # 6.2 | Entire Project | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
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| 28 | <u>Compliance Monitoring</u> . The Designated Biologist(s) shall be at the Project Area daily and during all Covered Activities until all of the following items are completed: Pre-construction Surveys (as required in accordance with Condition of Approval 7.1); SJAS burrow flagging (as required in accordance with Condition of Approval 7.2); Covered Species exclusion fencing installation (as required in accordance with Condition of Approval 7.3); SJAS trapping work (as required in accordance with Condition of Approval 7.4) ; SJAS burrow excavation work (as required in accordance with Condition 7.5); and the initial ground disturbance at each discreet Work Area. The Designated Biologist shall conduct these daily compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of the Covered Species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring within the Project Area covered by the ITP. After the implementation of Conditions of Approval 7.1 through 7.5 and all initial ground disturbance has been completed, the Designated Biologist(s) shall be at the Project Area at least once weekly to conduct compliance inspections. The Designated Representative or Designated Biologist(s) shall prepare daily/weekly written observations and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP. | ITP Condition # 6.5 | Entire Project | Permittee | |
| 29 | <u>Covered Species Observations</u> . During all Covered Activities, all workers shall inform the Designated Biologist(s) if individuals of the Covered Species are observed within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease until the Covered Species moves from the Project Area of its own volition, or is moved by the Designated Biologist(s). | ITP Condition # 6.6 | Entire Project | Permittee | |
| 30 | <u>Quarterly Compliance Report</u> . The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.5 into a Quarterly Compliance Report and submit it to CDFW along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative, Regional Office and Headquarters CESA Program no later than the 5th day of the month it is due. At the time of the ITP's approval, the CDFW Regional Representative is Steven Hulbert (Steven.Hulbert@wildlife.ca.gov), the Regional Office email is R4CESA@wildlife.ca.gov and the 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 # 6.7 | Entire Project | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
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| 31 | <u>Annual Status Report.</u> Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 6.7; (2) a general description of the status of the Project and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in this MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project-related 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 # 6.8 | Entire Project | Permittee | |
| 32 | <u>CNDDDB Observations.</u> 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 Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. | ITP Condition # 6.9 | Entire Project | Permittee | |
| 33 | <u>Notification of Take or Injury.</u> Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005 or emailing CDFW's Regional Representative (see below). 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 # 6.11 | Entire Project | Permittee | |
| 34 | <u>Pre-Construction Survey.</u> Prior to any ground disturbance within each discreet Work Area, the Designated Biologist(s) shall visually survey that discreet Work Area: plus a 50-foot buffer for potential SJAS burrows. Permittee shall provide the Pre Construction Survey results in a written report to CDFW's Regional Representative at least seven (7) days prior to the beginning of Covered Activities. The Pre-Construction Survey report shall include, but not be limited to, methodology, date and time of survey, and a discussion and map of the locations of each potential SJAS burrow. | ITP Condition # 7.1 | Before commencing Covered Activities/ Entire Project | Permittee | |
| 35 | <u>SJAS Burrow Flagging and Avoidance During Shoulder Backing Replenishment.</u> All potentially suitable SJAS burrow openings within the gravel covered shoulder backing areas will be flagged so that the filling of those burrow openings can be avoided during the replenishment activities. During replenishment activities, those flagged burrow openings will be temporarily (for no more than two hours total) covered with a small (approximately 12-inch in diameter) wooden or plastic disk by hand crews on foot. Once the shoulder backing in the vicinity of the flagged/covered burrow opening has been replenished, the flag and object used to cover the opening will be immediately removed. Alternatively, the shoulder backing covering in the immediate vicinity of suitable Covered Species burrow opening may be replenished by hand crews using hand tools to avoid impacting the burrow opening. | ITP Condition # 7.2 | Before commencing Covered Activities/ Entire Project | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
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| 36 | <u>Covered Species Exclusion Fencing</u> . Exclusion fencing shall be installed in accordance with the CDFW-approved Covered Species Exclusion Fence Plan (described in Condition of Approval 6.4). This fence may also serve to delimit the discreet Work Area Boundaries as required under Condition of Approval 5.9. The exclusion fence shall be installed to help prevent movement of the Covered Species into the discreet Work Area once ground- or vegetation-disturbing activities commence. At those Work Areas (or portions thereof) where individuals of the Covered Species will be excluded, Permittee shall place exclusion fence at the edge of the Work Area. The Designated Biologist shall supervise all fence installation methods (e.g., fence-line grubbing, trenching, construction, etc.) to minimize potential impacts to the Covered Species. The exclusion fence shall be supported sufficiently to maintain its integrity under all conditions, such as wind and heavy rain, for the duration of the active construction period. Exclusion fence may be keyed six to eight inches into the ground or alternatively a minimum of 12 inches of fence laid outward and flat on the ground securely fastened near the fence base and along the entire fence edge may be used to deter the Covered Species in the adjacent areas from digging under and entering the discreet Work Area. The exclusion fence shall be constructed of tightly woven material that prevents climbing and entrapment of any species. | ITP Condition #7.3 | Before commencing Covered Activities | Permittee | |
| 37 | <u>SJAS Trapping</u> . At those discreet Work Areas where Covered Activities will involve ground disturbance (excavation, trenching, grading, etc.), all flagged SJAS burrows that cannot be avoided shall be live trapped by the Designated Biologist(s) prior to the initiation of ground-disturbing Covered Activities (excluding exclusion fence installation) to minimize direct mortality. The trapping shall occur consistent with the CDFW-approved Relocation Plan required in Condition of Approval 6.3. Any captured SJAS shall be relocated to a CDFW approved release site identified in the CDFW approved Relocation Plan. The Designated Biologist(s) shall submit a report of the trapping/relocation effort to CDFW at least five business days prior to commencement of Covered Activities. | ITP Condition # 7.4 | Before commencing Covered Activities | Permittee | |
| 38 | <u>SJAS Burrow Excavation</u> . Following live trapping activities, the Designated Biologist shall perform the excavation by hand of the flagged small mammal burrows. The Designated Biologist shall ensure that any SJAS encountered in the excavated burrows are captured and relocated in accordance with the approved Relocation Plan (Condition of Approval 6.3). | ITP Condition # 7.5 | Entire Project | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
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| 39 | Daily Entrapment Inspections. The Designated Biologist(s) or Biological Monitor(s) shall inspect all open holes, sumps, and trenches at each discreet Work Area at the beginning and end of each day for trapped animals. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degrees) slope and that are up to six feet deep shall be covered when workers or equipment are not actively working in the excavation, which includes cessation of work overnight, or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. All trenches, holes, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and greater than six feet deep shall be covered when workers or equipment are not actively working in the excavation and at the end of each work day. To prevent inadvertent entrapment of individuals of the Covered Species, the Designated Biologist(s) or Biological Monitor(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground; and be secured with soil staples or similar means to prevent gaps. Each morning, end of each day (including weekends and any other non work days), and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) or Biological Monitor(s) shall thoroughly inspect them for individuals of the Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. If any worker discovers that individuals of the Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow the individuals of the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist(s) shall capture and relocate individual SJAS as per the MRRP described in Conditions of Approval 6.3. | ITP Condition # 7.6 | Before commencing Covered Activities/ Entire Project | Permittee | |
| 40 | Materials Inspection. Workers shall thoroughly inspect for individuals of the Covered Species in all construction pipe, culverts, or similar structures with a diameter of two inches or greater that are stored for one or more overnight periods before the structure is subsequently moved, buried, or capped. If, during inspection, an individual of the Covered Species is discovered inside the structure, workers shall notify the Designated Biologist and allow the Covered Species to safely escape the structure before moving and utilizing the structure. | ITP Condition # 7.7 | Before commencing Covered Activities/ Entire Project | Permittee | |
| 41 | Equipment Inspection. Workers shall thoroughly inspect for individuals of the Covered Species under vehicles and equipment before the vehicles and equipment are moved. If an individual of the Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. | ITP Condition # 7.8 | Before commencing Covered Activities/ Entire Project | Permittee | |
| 42 | Covered Species Injury. If a Covered Species is injured as a result of Covered Activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured individual of the Covered Species. The Permittee shall notify CDFW of the injury immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 6.11. Notification shall include the name of the facility where the animal was taken. | ITP Condition # 7.9 | Entire Project | Permittee | |

| | Mitigation Measure | Source | Implementation Schedule | Responsible Party | Status / Date / Initials |
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| 43 | Record of Handling. The Designated Biologist shall maintain a record of all Covered Species handled, and all documented observations of individuals of the Covered Species. This information shall include for each animal; (1) the locations (Global Positioning System (GPS) coordinates and maps) and time of capture and/or observation as well as release; (2) sex; (3) approximate age (adult / juvenile); (4) weight; (5) general condition and health, noting all visible conditions including gait and behavior, diarrhea, emaciation, salivation, hair loss, ectoparasites, and injuries; and (6) ambient temperature when handled and released. The Designated Biologist shall prepare a Relocation Summary and include it in the Quarterly Report described in Condition 7.8 of the ITP. The Relocation Summary in the Final Mitigation Report shall include cumulative results, analysis of data collected, and conclusions. | ITP Condition # 7.10 | Entire Project | Permittee | |
| POST-CONSTRUCTION | | | | | |
| 44 | 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. | ITP Condition # 5.14 | Entire Project and Post-construction | Permittee | |
| 45 | Habitat Restoration Plan. All temporarily impacted habitat (scrub and grasslands) within each discreet Work Area will be restored to pre-project conditions or better. Restoration will be assisted by re-seeding and/or replanting the temporarily impacted area(s). Re-seeding and/or replanting will be completed by November 15th of the year that the Covered Activities are completed and the temporarily impacted area(s) cannot remain disturbed for more than one (1) calendar year without undergoing restoration efforts. A Habitat Restoration Plan will include a seed mix and/or planting mix, methods to seed and/or plant, proposed success criteria, and a contingency plan if restoration efforts perform unsuccessfully. The Habitat Restoration Plan will be provided to CDFW for review and written approval prior to implementation of the Habitat Restoration Plan. | ITP Condition # 7.11 | Post-construction | Permittee | |
| 46 | 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 this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project related incidental take of the Covered Species; (4) information about other Project-related impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information. | ITP Condition # 6.10 | Post-construction and after completion of mitigation | Permittee | |

Attachment 2A



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

Applicant proposes that the following parcel(s) of land be considered for approval by the California Department of Fish and Wildlife as suitable for purposes of habitat management lands to compensate the adverse environmental impacts of the Project:

| <u>Section(s)</u> | <u>Township</u> | <u>Range</u> | <u>County</u> | <u>Acres</u> |
|-------------------|-----------------|--------------|---------------|--------------|
| _____ | _____ | _____ | _____ | _____ |

Current Legal Owner(s), of the surface and mineral estates, include Assessor's Parcel Number(s):

General Description of Location of Parcel(s):

Land Value: \$

For Region Use Only

APPROVED ___ By: _____ DATE: _____
Regional Manager's Signature

REJECTED ___ Region: _____

Explanation: _____

Attachment 2B

ATTACHMENT 2B
 CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE (CDFW)
 HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR THIRD PARTY
 BENEFICIARY (TPB) PROJECT APPLICANTS

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

To: _____
 Regional Manager, Region Name

From: _____
 Project Applicant

Phone: _____

Tracking #: _____
 CDFW assigned permit or agreement #

Project Name: _____

Enclosed is the complete package for the TPB Conservation Easement

Documents in this package include:

Draft TPB Conservation Easement Deed with legal description stamped by a licensed surveyor, if applicable.

Proposed Lands for Acquisition Form (PLFAF)

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

Mineral Assessment Report, if applicable.

Preliminary Title Report(s) for subject property is enclosed and has been reviewed for Encumbrances, including severed mineral estates, and other easements. The title report must be less than one year old when final processing is conducted.

Included are additional documents:

document(s) to support title exceptions

document(s) to explain title encumbrances

a plot or map of easements/encumbrances on the property

Copy of Grantor's Policy of Title Insurance when proposed mitigation land was purchased, if available.

County Assessor Parcel Map(s) for subject property

Vicinity or Site Location Map

Final Permit or Agreement (or other appropriate instrument)

Type of agreement: Bank Agreement Mitigation Agreement

Permit _____ Other: _____

(write in type of permit)

Final Management Plan (if required prior to finalizing permit or agreement)

Biological Resources Report, if applicable.

Copy of NGO or Grantee's due diligence approval letter from CDFW.

Attachment 3

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

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

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

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

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

Project Tracking Number

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

Check information:

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

- a. Endowment: for Long-Term Management Subtotal \$ _____
- b. Habitat Enhancement Subtotal \$ _____
- c. Security:
 - 1. Cash Refundable Security Deposit Subtotal \$ _____
 - 2. Letter of Credit Subtotal \$ _____
 - 1. Financial Institution: _____
 - 2. Letter of Credit Number: _____
 - 3. Date of Expiration: _____

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

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

Attachment 4

Attachment 4

Amended Incidental Take Permit No. 2081-2021-018-04
(Amendment 1)

1. The Authority section has been amended as follows:

* * *

Permittee: California Department of Transportation (Caltrans)
Principal Officer: ~~Javier Almaguer~~Robert Scott, Biology Branch Chief
(Acting)
Contact Person: ~~Christina Anderson~~Sukraj Gill (559) 445-6468383-5562
Mailing Address: 2015 East Shields Avenue, Suite A-100
Fresno, California 93703

2. The ITP Background section has been inserted preceding the Effective Date and Expiration section as follows:

Amended ITP¹ Background:

On February 28, 2024, CDFW received a request from the Permittee for a minor amendment to the original ITP and the corresponding fee payment. The request was to extend the time frame for completion of Habitat Management Land Acquisition by 36 months (from 18 months in the original ITP to 54 months). CDFW finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4). Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this amendment increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)). Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

CDFW now reissues the ITP. The amended ITP includes all of the operative provisions as of the effective date of this amended ITP. Attachment 4 to this amended ITP shows the specific red-line changes made to the ITP as a result of this minor amendment.

3. Condition of Approval 8 has been amended as follows:

* * *

The Permittee shall either purchase 6.7 Covered Species credits from a CDFW-approved mitigation or conservation bank with a service area that encompasses the Project Area **OR** provide for both the permanent protection and perpetual management of 6.7 acres of

¹When this incidental take permit and attachments refer to the "ITP", it means the "Amended ITP" unless the context dictates otherwise.

Habitat Management (HM) lands pursuant to Condition of Approval 8.3, below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4, below. The credit purchase **OR** permanent protection and funding of perpetual management of HM lands must be complete before starting Covered Activities, **OR** within ~~1854~~ months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9, below.

* * *

4. Condition of Approval 9 has been amended as follows:

* * *

Even if Security is provided, the Permittee must complete the required credit purchase or acquisition, protection and transfer of all HM lands and record any required conservation easements no later than ~~1854~~ months from the effective date of this ITP. CDFW may require the Permittee purchase additional credits or purchase additional HM lands and/or provide 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.

5. The Notices section has been amended as follows:

Notices:

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

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

~~Alternatively, the Permittee shall email the digitally signed ITP to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5.~~

* * *

Original cover with attachment(s) to:

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

1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4005
R4CESARRR.R4@wildlife.ca.gov

* * *

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

~~Steven Hulbert~~[Mindy Trask](mailto:Mindy.Trask@wildlife.ca.gov)
California Department of Fish and Wildlife
Region 4 Central
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) ~~575-6415939-0282~~
~~Steven.Hulbert~~mary.trask@wildlife.ca.gov

5. The Compliance with CEQA section has been amended as follows:

* * *

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.

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

5. Attachments have been amended as follows:

* * *

Incidental Take Permit
No. 2081-2021-018-04-~~A1~~
CALIFORNIA DEPARTMENT OF TRANSPORTATION
STATE ROUTE 5 PANOCHE HILLS CAPITAL PREVENTATIVE MAINTENANCE PROJECT

ATTACHMENT 1

Amended Mitigation Monitoring and Reporting Program

* * *

ATTACHMENT 4

Minor Amendment No. 1 with Red-Line Changes

6. The Acknowledgement section has been amended as follows:

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: _____

Printed Name: _____ Title: _____