



California Department of Fish and Wildlife
Bay Delta Region
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534

California Endangered Species Act
 Incidental Take Permit No. 2081-2021-093-03

ARAMIS SOLAR ENERGY GENERATION AND STORAGE PROJECT

I. Authority:

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

Permittee: IP Aramis, LLC

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II. Effective Date and Expiration Date of this ITP:

This ITP is effective on the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **December 31, 2056**.

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 6.12 of this ITP.

¹ Pursuant 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").

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

III. Project Location:

The Aramis Solar Energy Generation and Storage Project (Project) is located in the North Livermore Valley of unincorporated Alameda County, approximately 2.4 miles north of the intersection of Interstate (I)-580 and North Livermore Avenue and centered at 37.74722° N, 121.77326° W (WGS84) (T2S, R2E, Secs. 16 and 17 of Tassajara, CA and Livermore, CA USGS 7.5-minute quadrangles; See Figure 1: “Project Site/Permit Area”). The Project site is divided into two non-uniform portions by Manning Road. (See Figure 2: “Site Layout”.) The smaller northern portion extends approximately 0.41 miles north from Manning Road, and – at its widest point – approximately 0.15 miles west of and 0.26 miles east of the junction of North Livermore Avenue and Manning Road. The larger central portion is bounded by Manning Road to the north, North Livermore Avenue to the east, a private driveway (4440 North Livermore Avenue) to the south, and Cayetano Creek and the creek’s western-most tributary to the west, spanning approximately 1.10 miles north-south and 0.69 miles east-west at its widest points.

IV. Project Description:

The Project includes the development of approximately 398 acres of undeveloped land into a 100-megawatt (MW) capacity solar energy generation and storage facility and the facility’s subsequent operation, decommissioning or repowering. Major Project components are the solar facility that includes photovoltaic modules and energy collection system, a project substation, the Battery Electrical Storage System (BESS), various support facilities, a generation intertie (gen-tie) line, and a Sustainable Agricultural Management Plan (SAMP). (See Figures 2 and 3.) The Project also includes activities to support on-site restoration. The Project will take place over approximately 32 years in three phases: a Construction Phase (9 months over a 2-year period, anticipated from 2025-2026), an Operations and Maintenance (O&M) Phase (25 years, anticipated from 2027-2051), and a Decommissioning or Repowering Phase (5 years, anticipated from 2052-2056). The SAMP activities will take place during the Construction and the O&M Phases of the Project.

Construction Phase

The Construction Phase will include building of the solar facility, and initiation of SAMP activities. Components of the solar facility and BESS will be photovoltaic panel arrays, inverters, electrical cable and lines, a new substation, a gen-tie to the adjacent Pacific Gas & Electric (PG&E) Cayetano Substation, batteries and their enclosures, an O&M building, water tanks, a stormwater detention basin, access roads, driveways, perimeter security fencing, and lighting. Laydown area(s) and wildlife exclusion fencing will be installed to support construction activities.

Construction activities will include site preparation (mowing, grubbing, and grading; equipment delivery, laydown and storage; and placement of erosion control materials), infrastructure installation (trenching, horizontal directional drilling [HDD], pile driving, laying of foundations, pulling and stringing of electrical and utility line and cable, contouring and surfacing of roads, and placement of electrical and ancillary support equipment), as well as

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facility testing, and temporary impact restoration.

SAMP activities during the Construction Phase will include grassland restoration (disking and seeding), and the planting and irrigating of a buffer of agricultural crops and pollinator nectar resources (forbs, trees, and shrubs).

Project excavation will be associated with trenching for placement of electrical line, stabilizing access road footprints, installing infrastructure foundations, and pile-driving footings where required for structural safety. Most excavation will be less than six feet deep; however, some excavations, such as those for the installation of electricity collector poles and dead-end structures, may reach depths of approximately 20 feet depending on site-specific soil conditions. Grading will be limited with attempt to maintain existing site drainage patterns.

Installation of Project infrastructure will avoid an intermittent stream (Cayetano Creek) and ephemeral tributaries that pass through the Project site by establishing 50-foot buffers from stream courses. (See Figure 2.)

Photovoltaic Panels

The Project will include up to 232,500 photovoltaic (PV) panels on 3,147 rows (“arrays”) of a single-axis tracker racking system, affixed to approximately 31,000 6-inch by 9-inch pile-driven steel piers. (See Figure 2.) The edge-to-edge distance of the arrays will be 6.4 feet when panels are at horizontal (noon) position, and 9.2 feet when panels are at most vertical (stow) position. The number of panels in each array will vary with the length of the arrays, which will range from approximately 210 feet to 313 feet. The size of panels will depend on the model used (for example, 6.7 feet by 4.1 feet [First Solar] or 7.5 feet by 3.7 feet [Jinko]). Panel height will be 8 feet in the stow position and 4.5 feet in the noon position. Panels will be dark-colored, textured with indentations, and coated with anti-reflective materials to maximize absorption and to reduce glare from reflected sunlight to less than 4 percent of incoming sunlight. At noon position, the arrays will shade approximately 146.6 acres of the Project footprint.

Underground and above-ground electrical wiring

The Project will include low-voltage underground and above-ground electrical wiring to connect each array of PV panels to string inverters located throughout the facility. (See Figure 2.) The Project will include medium-voltage lines (“collector cables”) to transmit electricity from the inverters to the on-site substation. Collector cables will be buried for the majority of their length but will emerge above-ground and be mounted on up to 10 wooden poles to cross Cayetano Creek and its tributaries (and for gen-tie). The height of electrical poles will be 35 feet on average (with maximum up to 100 feet for the gen-tie pole). Each pole will be approximately 12 inches in diameter and will be installed to depths up to 20 feet, depending on site-specific soil conditions. Project personnel will string medium-voltage distribution lines at the three following locations, with approximate lengths of:

- 250 feet across Manning Road (approx. 37.752356° N, 121.771344° W);

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- 200 feet across an ephemeral western tributary of Cayetano Creek (approx. 37.750557° N, 121.778544° W); and
- 250 feet across the intermittent channel of Cayetano Creek (approx. 37.746850° N, 121.775848° W).

In addition, the Project will include HDD to install a power line underneath an ephemeral, western tributary of Cayetano Creek (approx. 37.751106° N, 121.780124° W) and may also use HDD at the three locations listed above. Bore entry and exit points and all associated construction activity will be located within the established security fencing of the Project outside of the riparian corridor (and outside of the 50-foot buffer established from the banks of the tributary). Drilling will occur below the bottom of the ephemeral tributary.

Inverters

The Project will include 30 string inverters throughout the solar panel arrays or a central inverter station to convert panel-generated, low-voltage electricity from direct to alternating current and to step up voltage to medium. (See Figure 2.) Enclosed inverter stations will be installed on skids or on concrete foundations. The skid posts will be pile-driven into the ground before attaching the skid for foundation of the inverter. If working pads are needed for electrical equipment at the inverters, the soil will be backfilled around the working pads to a 3:1 slope above existing ground level around (and level with) the inverter foundation. Enclosed inverter stations will have an exterior 300-watt, motion-sensitive light, approximately 2 feet above the door.

Substation

The Project will include one new substation to the west of PG&E's Cayetano Substation, set back from Cayetano Substation and from North Livermore Avenue by at least 150 feet and 250 feet, respectively. (See Figure 2.) The new substation will house transformers, circuit breakers, switches, protection relays, and other equipment to protect electrical infrastructure of the Project and of PG&E. The substation will accommodate a small parking area. The new substation will step up incoming medium-voltage energy to the outgoing interconnection voltage of Cayetano Substation by using one or more step-up transformers. And the new substation will meter and convey the energy pursuant to Project interconnection and power purchase agreements through Cayetano substation via the gen-tie line. To create the substation foundation, a 5000-square-foot area will be excavated and filled with gravel or aggregate base material.

Generation intertie (gen-tie)

To connect the substation to the regional grid, the Project will include an approximately 100-foot long, single- or double-circuit gen-tie line between the Project substation and Cayetano Substation. (See Figure 2.) The gen-tie line will be strung on a single tubular, steel pole, at height of 30 to 100 feet, depending on angle of entry required by PG&E. The gen-tie pole will be installed to a depth of up to 20 feet, depending on site-specific soil conditions.

Battery Electrical Storage System (BESS)

The Project will include a BESS composed of lithium-ion batteries to provide up to four hours of energy storage, and subsequent dispatch, to a maximum capacity of 100 MW. (See Figure 2.) The batteries will be housed either in electrical containers or in up to four 100-foot by 180-foot buildings. The number and size of these enclosures will depend on the battery vendor selected by the Permittee; at most, a cluster of 50 large enclosures or a cluster of up to 1,000 small enclosures will have a footprint of 3 acres. The Project will include underground, low-voltage wiring from battery enclosures to deliver electricity between a bi-directional inverter station and the shared transformer (in the Project substation).

Operations & Maintenance (O&M) Building

The Project will include an O&M Building to the north of the Project substation in order to accommodate up to four permanent staff and to allow on-site monitoring and management of the BESS. (See Figure 2.) The O&M Building dimensions will be approximately 20 feet long by 20 feet wide and 15 feet high at its tallest point. The building footprint will include a meteorological station and an electrical control enclosure. A fiber optic telecommunications line will be strung with the gen-tie line, running from the O&M Building to the interconnecting utility. The building foundation will be constructed using imported gravel or aggregate base material, and concrete for the O&M Building floor. The O&M Building will be plumbed to utilize water from a storage tank and to expel wastewater into a septic tank. O&M staff will remove the septic water routinely. No septic leach system will be installed for wastewater treatment on-site.

Water Tanks

The Project will include placement of 7 water tanks on site:

- one 250,000-gallon tank to the west of Cayetano Substation between the northwest corner of the BESS and the southeast corner of the O&M building for use in fire suppression;
- one 5,000-gallon tank at the northeast corner of the O&M Building for building usage; and
- five 25,000-gallons tanks within the security fenced area by access road entrances (along North Livermore Avenue and Manning Road) for irrigation of the agricultural landscaping buffer. (See Figure 2.)

The Permittee will fill the 5,000- and 25,000-gallon tanks with water up to four times per year. Water will be purchased off-site and transported to the Project site, and/or pumped from an on-site well. It is assumed that purchased non-potable water will be sourced from the surface water supply of Zone 7 Water Agency. Groundwater, if used, will come from the May School Subbasin of the Livermore Valley Groundwater Basin.

Stormwater Detention Basin

The Project will include a narrow, 5-foot deep, rectangular detention basin at the southeastern edge of the Project site to prevent discharge of off-site stormwater runoff. (See Figure 2.) This basin will be approximately 0.4 acres in size and will hold up to approximately 2 acre-feet of water during periods of heavy precipitation. To avoid ponding and allow infiltration of water within 48 hours, the basin will include 3 feet of dead storage below and an outlet to discharge water across the site (away from Cayetano Creek and its tributaries). The Project's O&M personnel will routinely remove vegetation from the basin to maintain its function and to deter its use by sensitive amphibian species. The Project will include permanent fencing around the basin to further limit the basin's use by wildlife.

Access Roads and Rocked Driveway Aprons

The Project will include 5.9 miles of 16-foot-wide perimeter and internal access roads and narrower pathways to provide routine and emergency access to Project infrastructure. (See Figure 2.) Access roads will widen to 20 feet at corners. The Permittee will ensure that the design of the access roads will prevent erosion and maintain existing surface water patterns. Bulldozers, a water truck, and motor graders will be used to construct the road surfaces out of imported gravel or aggregate base material (up to 8-inchthick placed on top of 8 inches scarified and compacted subgrade), excavating soil and replacing with gravel or sand to ensure a stable road base where needed. Or, where soil conditions allow, roads will be constructed from compacted soil only. The Permittee will ensure that narrow paths are only used by small maintenance vehicles.

The Project will include all-weather, rocked driveway aprons at four access points along Manning Road and one access point along North Livermore Avenue. (See Figure 2.)

Perimeter Security Fencing, Gates, and Lighting

The Project will include installation of approximately 6.49 miles of security fencing (including locked gates) around the work area perimeter, excluding and buffered by at least 50 feet from Cayetano Creek and its tributaries and set back at least 50 feet from the property line. (See Figure 2.) The security fence will be 7 feet high and will be constructed with 4-inch diameter wood posts installed approximately every 10 feet, and 4-inch galvanized wire mesh knuckled up 4-8 inches above ground to allow small-medium sized animal passage.

The Project will include installation of shielded, downward-directed security lighting at the control enclosure and at the O&M Building (and at enclosed inverter stations if the Permittee selects these for use). Lighting will be operated at night only during scheduled maintenance or emergency repairs and events. Lighting will be activated through both manual and motion-sensitive switches.

Laydown Area(s)

The Project will include construction of one or two temporary laydown areas, one 0.525 acres

and one 1.395 acres (total 1.970 acres; see Figure 2). The larger of the laydown areas will be located inside security fencing, north of the access road, adjacent to the southernmost entrance on North Livermore Avenue and north of Cayetano Substation; this area will be used for laydown/staging and temporary parking. The smaller laydown area will be located south of the Cayetano Substation and east of the BESS. Laydown areas will be cleared of dried vegetation, but will not be surfaced with gravel, concrete, or other substrate.

O&M Phase

The O&M Phase includes solar facility and BESS operation, inspection, maintenance, and replacement of equipment as needed, and PV panel washing. SAMP activities during this phase include maintenance of the grassland and agricultural landscaping buffer (including short-term irrigation of the buffer), husbandry and grazing of sheep and chickens, and beekeeping for honey production.

The Project will include O&M activities up to several times per week to operate and upkeep the solar facility and BESS. These activities include inspections, routine preventative maintenance, corrective maintenance (for example, welding or other activities to return the plant to operation following forced or unscheduled shutdowns), replacement of electrical equipment (for example, PV panels and electrical line/cable, as needed), and washing of PV panels. The Permittee will wash panels one time per year using approximately 5-10 acre-feet of water per washing, a tanker truck, and smaller rubber-tired panel washing trucks. Water used for panel washing will be obtained from an on-site groundwater well and/or purchased off-site. Groundwater that will be used in panel washing may require treatment by a combined osmosis and deionization system to reduce the concentration of total dissolved solids before use. This treatment equipment will be housed within the footprint of the O&M Building.

During the O&M Phase, the Permittee also will restore all temporarily impacted areas to pre-Project or better habitat conditions. Grassland management activities in the SAMP will incorporate this restoration.

Sustainable Agricultural Management Plan (SAMP)

The Project includes implementation of a SAMP to continue agricultural land use in order to maintain compliance with Alameda County zoning restrictions. A draft version of this plan dated April 2021 is presented in Appendix C of the Project's ITP Application. The SAMP will involve sheep grazing, chicken rearing, and beekeeping, with pollinator nectar and pollen resources planted into an agricultural landscaping buffer and incorporated into post-solar-facility-construction grassland restoration and maintenance. (See Figures 2 and 3.) The SAMP aims to maintain or improve soil capability, reduce erosion, minimize agricultural water use, control invasive weeds, minimize fuel build-up, and support small-scale agricultural production. An ecological study of at least five years duration will be conducted concurrently with the SAMP in order to inform adaptive management. However, impacts associated with the research study are not considered part of the Project covered under this ITP and may require separate take authorization for CESA-listed species.

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Agricultural Landscaping Buffer

The SAMP will include installation of an agricultural landscaping buffer 15- to 20-feet wide along the exterior of perimeter fencing on the west side of North Livermore Avenue and on the north and the south sides of Manning Road. (See Figure 2). The agricultural landscaping buffer will serve as a partial visual screen of Project infrastructure, will provide small-scale agricultural harvests (lavender, grapes, and/or olives), and will incorporate pollinator habitat, including forage to support honey production. Plants will be drought tolerant, pollinator-friendly, evergreen or deciduous, with shrubs oriented in 2 to 3 offset rows, and with trees interspersed primarily along Manning Road. Trees and shrubs proposed include a variety of regionally or California native, non-native, and horticultural strains. The planting also will include a grass/forb seed mix that promotes honey bee forage. (See Grassland Restoration and Management below.) Pollinator nectar species to be planted will include native milkweed (*Asclepias* spp.).

The Permittee will install the agricultural landscaping buffer during the Construction Phase. To support plant establishment, the new plantings will be irrigated. (Water for irrigation will come from the five 25,000-gallon water tanks – see *Water Tanks* above – placed inside Project security fencing at gates.) The Permittee will manage the agricultural landscaping buffer with hand tools only, will use integrated pest management principles to control pests, and will replace plants that die. No herbicides or pesticides will be used without CDFW approval. The Permittee will ensure that vehicle access to the agricultural landscaping buffer will be with rubber-tired or all-terrain vehicles only.

Grassland Restoration and Management

During the Construction Phase and prior to installation of the solar arrays, the Permittee will disk and reseed all temporarily impacted areas of California annual grassland and dryland pasture with a dryland pasture blend that includes pollinator nectar and pollen resources.

Project goals for grassland restoration and management include improved soil quality and forage yields to increase agricultural production on site. The restored grassland will not require irrigation, and no herbicides or pesticides will be used without CDFW approval. The Permittee will ensure that vehicle access to the grassland restoration area will be with rubber-tired or all-terrain vehicles only.

Once restored grassland has sufficiently re-established (anticipated 6 to 18 months after fall seeding), an adaptive management program will be initiated incorporating a sheep and chicken rotational grazing program that targets Residual Dry Matter (RDM) levels recommended by the University of California Division of Agriculture and Natural Resources Rangeland Monitoring Series Publication No. 8092 to heights between 4 and 12 inches.

Sheep grazing

The Project will include sheep grazing for fuels management and meat and/or wool production. The Permittee will rotationally graze up to 400 sheep from 2 to 5 months between

January and May beneath and around the PV arrays, based on range conditions to the target RDM level and height described above. (See Figure 3.) To manage grazing pressure, the entry of sheep to the Project site will be staggered and will use temporary electrical fencing as needed. During periods of drought sheep will be stocked at lower densities than periods of sufficient sustained moisture.

Approximately one time per year, the Permittee may graze sheep in the dry stream courses of Cayetano Creek and/or its tributaries outside of the Project security fence but within the Project site to reduce fuel load.

Chicken rearing

The Project will include chicken rearing for egg and/or meat production. The Permittee will implement chicken rearing through rotational grazing in portable pens that will be moved manually within ten 4-acre plots located in aisles between PV panels. (See Figure 3.) Chicken rearing will operate year-round, except during drought conditions (when grazing will be limited to the months of September through June) and during periods of rainfall (when pens will be removed from the pasture). Chicken pens will be rubber-tired, mobile trailers, measuring approximately 2.5 feet wide by 9.5 feet long, and will have raised wire mesh flooring approximately 4 inches above ground level. The raised flooring of chicken pens will allow for above-the-ground vegetation removal by chickens while limiting deep soil tillage.

Chickens will be grazed based on forage availability to the target RDM level and height described above. Not all forty acres will be in use at one time as the chicken pens will be rotated daily within a plot and every two to four weeks between plots. When grassland restoration has achieved suitable condition (anticipated six to 18 months after reseeding), staggered-entry chicken rearing operation will begin, which will take place over a minimum of five consecutive years. Therefore, in years one and two, 1,000 chickens will be deployed in 50 pens (creating a total areal impact at any point of 0.029 acres). In year three, 4,000 chickens will be deployed in 200 pens (creating a total areal impact at any point of 0.115 acres). And, in years four and five, 5,000 chickens will be deployed in 250 pens (creating a total areal impact at any point in years four and five of 0.143 acres). The maximum number of chickens deployed on site will be 5,000.

Beekeeping

The Project will include beekeeping of European honey bees for honey production on one acre of the Project site, north of the southernmost entrance on North Livermore Avenue and north of Cayetano Substation. (See Figure 3.) When forage is established in restored grassland, the Permittee will begin apiary operations. The apiary will be located on the footprint of the Construction Phase's large laydown area.

The Permittee will maintain the apiary year-round, regularly servicing the hives by cleaning hive frames, splitting colonies as needed, maintaining supplemental water and/or food, and monitoring honey bee health following local, state, and federal laws and best practices for management. Supplemental water will be provided in a "bee yard waterer" from a water truck

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or trailer filled with groundwater from an existing well located on site. The beekeeper will provide supplemental food in the form of a sugar syrup mixture when forage is not in bloom. To protect the apiary from potential weather-related loss, a shelter will be constructed in a portion of the bee yard.

Decommissioning or Repowering Phase

Toward the end of the O&M Phase, the Permittee will decide whether to decommission or to repower the facility. The Permittee will prepare either a Decommissioning Plan or a Repowering Plan.

If decommissioning occurs, the Permittee will remove all above-grade facilities and concrete foundations. Other materials to be removed by the Permittee include but are not limited to foundations of the BESS, the substation, inverter pads, water storage tanks, and O&M building, piers for panel racks, non-native road substrates, electrical poles, and the detention basin. Underground wire will be cut and capped to a depth approximately 2-3 feet below ground level. The Permittee will repurpose off site, recycle, or dispose of the removed materials and will recycle or dispose of batteries as hazardous waste, depending on available recycling technology. These decommissioning activities will take place over approximately six months.

During the Decommissioning Phase, the Permittee also will restore all Project-impacted compacted soil (for example, driveways, roads, and foundations) to densities and depths consistent with adjacent unimpacted areas and to pre-Project or better habitat conditions. As part of this restoration, the low areas will be filled with clean, compatible sub-grade material to achieve proper depth, and locally sourced topsoil will be applied. In consultation with the landowner and CDFW, the Permittee then will disk the soil and select and apply an appropriate seed mixture for soil stabilization and revegetation.

If repowering occurs, the Permittee will remove outdated equipment (including but not limited to some or all of the PV panels, piers, and/or inverters) and will replace it with new technology. To limit ground disturbance, the Permittee will install the new equipment in the footprint of the removed equipment and will utilize the same laydown area as used during the Construction Phase. If buried electrical line is replaced, the Permittee will pull and rebury cables using a ditch witch to limit ground disturbance. Repowering will also include minor access road resurfacing and/or repair.

During the Repowering Phase, the Permittee will restore all temporarily impacted areas to pre-Project or better habitat conditions. In consultation with the landowner and CDFW, the Permittee will disk the soil and select and apply an appropriate seed mixture for soil stabilization and revegetation.

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

This ITP covers the following species:

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

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

VI. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include initial site preparation; heavy equipment operation; grading; excavation, trenching and backfilling; installation and/or removal of structures and equipment; vehicle and foot traffic; access road construction, repair and resurfacing; HDD; handling of stockpiles and stored materials; soil compaction; vegetation clearing and maintenance (grading, mowing, grubbing and rotational sheep and poultry grazing); revegetation requiring disking and excavation; washing of PV panels; as well as other development activities related to the Project (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as: vehicle/equipment strikes, materials placement, and/or grazing (crushing); burrow collapse associated with earthwork, sheep or chicken grazing, vegetation removal and/or vehicle passage (entombment, crushing, or suffocation); equipment laydown, trenching, other excavations, grading, HDD, pile driving, laying of foundations, planting, disking (direct contact with sharp objects and/or blunt-force trauma); placement of spoils and/or fill materials (entombment, crushing, and/or suffocation); exposure to contaminated water from washing of PV panels; and entanglement in erosion control materials and/or exclusion fencing (strangulation, immobility). Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so when individuals of the Covered Species are salvaged, collected for identification, and/or relocated out of harm’s way as required by this ITP. Covered Activities could also cause loss of individual Covered Species during habitat enhancement, maintenance, and monitoring on the Project’s mitigation land(s). The areas where authorized take of the Covered Species is expected to occur include the entire Project site and the Project’s mitigation land(s) (collectively, the Project Area).

Indirect impacts of the authorized taking also include adverse effects to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, lighting at night, and the Project’s incremental contribution to cumulative impacts. These impacts include: stress resulting from noise and vibrations from ground disturbance, equipment operation, and traffic; stress resulting from capture and relocation; increased exposure or stress from

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

disorientation; introduction or spread of invasive species; loss of burrowing habitat used for shelter, reproduction, and escape cover; increased vulnerability to predation; exposure to contaminants through introduction of contaminated water, contaminated substrates, hazardous materials, and/or vehicle and equipment fuels and fluids; exposure to pathogens through introduction of contaminated water; and long-term effects due to displacement from preferred habitat, barriers to movement to and increased travel distance to breeding habitat (decreased reproductive output, energetic expenses, exposure to predation and elements), changes in drainage patterns that favor different vegetative growth, and/or increased pollution. Lastly, a fire sparking as a result of battery or other equipment presence could result in burning or loss of habitat (change in vegetation composition) and food supply (change in prey resources). Individuals displaced due to habitat loss and degradation may be unable to survive in adjacent areas if these areas are at carrying capacity or are unsuitable for colonization. The areas where authorized take of the Covered Species is expected to occur include the entire Project Area.

The Project is expected to cause the permanent loss of 24.3 acres of habitat for the Covered Species and the temporary loss of 395.8 acres of habitat for the Covered Species for a total of 420.1 acres of impacts to Covered Species habitat. The Construction Phase will result in 24.3 acres of permanent and 328.4 acres of temporary impacts; the O&M Phase will result in 4.4 acres of temporary impacts; the SAMP will result in 41.0 acres of temporary impacts; and the Decommissioning or Repowering Phase will result in 22.0 acres of temporary impacts. Decommissioning would result in approximately 11.7 acres of temporary impacts and Repowering would result in 22.0 acres of impacts. The higher amount of 22 acres of impacts is considered in this ITP because only Repowering or Decommissioning will occur and not both.

If the Permittee pursues repowering, this phase of the Project may require an amendment to this ITP or a new ITP, and additional CEQA documentation. This ITP also does not cover O&M activities after Repowering. O&M activities beyond the term of this ITP and associated with a repowered project should be covered under an amendment and extension of this ITP or a new ITP.

VII. Incidental Take Authorization of Covered Species:

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

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VIII. Conditions of Approval:

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to any applicable mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 20200059008) certified by Alameda County Planning Department on November 24, 2020, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the final Aramis Solar Energy Generation and Storage Project Habitat Conservation Plan (ICF, *in prep.*) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the Conditions of Approval set forth in this ITP shall control.
4. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the Conditions of Approval in 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 Biologists and Biological Monitors. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist and Biological Monitor using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist and Biological Monitor are knowledgeable and experienced in the biology,

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natural history, collecting and handling of the Covered Species. The Designated Biologist and Biological Monitor 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 and Biological Monitor in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist or Biological Monitor must be changed.

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

program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.

- 5.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Plastic water bottles and plastic bags shall be removed daily.
- 5.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 5.8. Erosion Control.** Permittee shall utilize erosion control measures throughout all phases of the Project where sediment runoff from exposed soils could leave the Project Area and/or enter Cayetano Creek, its tributaries, or Project-adjacent ponds. Permittee shall repair and/or replace ineffective measures immediately.
- 5.9. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat. Acceptable substitutes include coconut coir matting. To limit introduction of invasive plant species, if erosion control materials include straw, Permittee shall ensure that it is rice straw and/or weed-free straw (and that use of hay is avoided). Permittee shall ensure that erosion control materials will not create a barrier to movement of California tiger salamander.
- 5.10. Maintenance of Existing Drainage Patterns.** Permittee shall minimize impacts from grading by ensuring that existing drainage areas and patterns will be maintained in their pre-Project condition to the fullest extent possible.
- 5.10.1. Stream and Tributary Buffer.** Within the Project Area, Permittee shall establish a minimum 50-foot buffer from Cayetano Creek and its tributaries, delineated by the Project's perimeter security fencing. Permittee shall not perform Covered Activities within this buffer, except on occasion for limited, short-term sheep grazing.
- 5.11. Vehicle Fueling, Servicing, and Washing.** Vehicles or equipment shall not be refueled within 100 feet of Cayetano Creek and its tributaries. Equipment shall be re-fueled and serviced at the designated O&M parking lot (during all Phases of the Project) and construction laydown areas (during Construction Phase) only. All construction material and fill will be stored and contained in a designated area that is located a sufficient distance away from waterways to prevent transport of materials into the creek or tributary channels. Vehicles shall not be washed on-site.

- 5.12. Pesticide Use.** Permittee shall not use pesticides, including herbicides, insecticides, fungicides, or rodenticides within the Project Area without prior consultation with and written approval from CDFW. Through this consultation, CDFW may approve limited use of herbicides through targeted spray (e.g., backpack sprayer) at a buffer from Covered Species habitat. If herbicides are required to control invasive species such as yellow star-thistle, the Permittee will prepare an Herbicide Application Plan, and submit it to CDFW for review and approval for each calendar year that herbicides would be used. If approved, the application of herbicides would follow local, state, and federal laws related to herbicide selection and application. Additionally, the Herbicide Application Plan would consider current research related to toxicity of herbicides on amphibians and that an appropriate herbicide or combination of herbicides would be used. If approved by CDFW, all pesticide application should be conducted by a Licensed and Certified Pesticide Applicator and used as directed by the manufacturer. Use of neonicotinoid pesticides will not be approved by CDFW within the Project Area.
- 5.13. Fertilizer Use.** Permittee shall not use fertilizers (or any similar soil additives, hereby referred to as “fertilizer”) within the Project Area unless Permittee requests and receives a written approval from CDFW. To request written approval for fertilizer application, no less than 60 days prior to the proposed application, Permittee shall submit to CDFW for review and approval a Fertilizer Application Plan. The Fertilizer Application Plan will detail the type of fertilizer proposed to be used, method of application, amount of fertilizer to be used, spatial extent and timing of proposed application, impacts assessment of application specific to the Covered Species, measures to reduce impacts to Covered Species, and justification for need of fertilizer application.
- 5.14. Delineation of Property Boundaries.** Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 5.15. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species that will be avoided within and adjacent to the Project Area with posted signs, posting, stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species’ habitat.
- 5.16. Project Access.** Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description, and shall not cross Covered Species’ habitat outside of or en route to the Project Area. Unless otherwise authorized under this ITP, Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel is 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 Project modification.

- 5.17. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.16 of this ITP.
- 5.18. 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.
- 5.19. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of Conditions of Approval set forth in this ITP.
- 5.20. Refuse Removal.** Upon completion of all phases 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.
- 5.21. Firearms and Dogs.** Permittee shall prohibit firearms and domestic dogs from the Project Area and Project site access routes during Covered Activities, except those that are in the possession of authorized security personnel or local, State, or federal law enforcement officials.
- 5.22. Wildfire Prevention.** Permittee shall keep basic fire suppression supplies on-site at all times. Hand removal of vegetation, mowing, weed-whacking, and/or grazing by sheep are the authorized methods that shall be used to reduce fuel loads. The Designated Biologist or Biological Monitor shall inspect for Covered Species all non-living or living vegetation marked for removal by hand, mowing or weed-whacking prior to removal and shall be on-site to monitor these fuels reduction activities. Permittee shall conduct mowing and grazing in alignment with Conditions of Approval 6.19 – particularly 6.19.2 and 6.19.3 – and 7.2. Disking and/or tilling shall not be permitted for fire prevention without prior written permission from CDFW, which may require an amendment to this ITP. Use of fire onsite to dispose of infected honey bees or contaminated apiary materials is prohibited.

5.23. Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (for example, algae, fungi, parasites, bacteria), from one Project Area and/or waterbody to another. Prevention best management practices (BMPs) and guidelines for invasive plants can be found on the California Invasive Plant Council's (Cal-IPC) website at: <http://www.cal-ipc.org/ip/prevention/index.php/>. Prevention BMPs and guidelines for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <http://www.protectyourwaters.net/>. Permittee shall incorporate BMPs to minimize risk of introduction and/or spread of *Phytophthora* spp.⁴ within the Project Area.

6. Monitoring, Notification, and Reporting Provisions:

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

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

6.3. Daily Compliance Monitoring. During the Construction Phase and Decommissioning or Repowering Phase, the Designated Biologist or Biological Monitor shall be on-site daily when Covered Activities occur while the temporary exclusion fence remains in place, and during any vegetation removal and ground-disturbing Covered Activities, with the exception of sheep or chicken grazing. The Designated Biologist or Biological Monitor shall conduct compliance inspections to: (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Biologist or Biological Monitor shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, weather conditions, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.

6.4. Weekly Compliance Monitoring. During periods of inactivity or after clearing,

⁴ *Phytophthora* is a genus of water mold and plant pathogen that includes the species responsible for Sudden Oak Death and other native and nursery plant mortality. Background levels of this pathogen may be present in the soil. However, Project activities have the potential to introduce additional species or increase pathogen load present. Introduction or exacerbation of *Phytophthora* infection in the Project Area may reduce viability of restoration plantings and already occurring native plant species.

grubbing, disking, and grading have been completed and temporary exclusion fence has been removed, compliance inspections by the Designated Biologist or Biological Monitor may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. This Condition applies to non-vegetation disturbing and/or non-ground-disturbing Covered Activities during the Construction Phase and the Repowering or Decommissioning Phase. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any Conditions of Approval of this ITP.

- 6.5. Photo Monitoring.** The Designated Biologist shall establish no less than 10 photo monitoring stations to provide representative views of Project construction, O&M, decommissioning or repowering, and restoration activities. Photo monitoring station results shall contribute to the assessment of temporary impacts and restoration work by CDFW; therefore, the Designated Biologist shall ensure that photo monitoring stations numbers and locations are sufficient to document temporary impacts and restoration success. Photo monitoring shall be done as follows:
- 6.5.1.** Stations should be located in areas that allow for unobstructed views and a field of vision of approximately 2,000 feet.
 - 6.5.2.** At least one photograph shall be taken at all stations prior to ground-breaking activities, and each month thereafter until construction and initial restoration are complete. Photo documentation of restoration success shall occur every three months following initial restoration until restoration success criteria are reached.
 - 6.5.3.** Photo monitoring station locations shall be provided to CDFW in a geographic format with the coordinate system and horizontal error identified.
 - 6.5.4.** If CDFW or the Designated Biologist determines that additional monitoring stations are necessary, the locations shall be added to the inventory of photo monitoring stations.
 - 6.5.5.** During each photo monitoring cycle, all stations shall be visited within two days.
- 6.6. Monthly Compliance Report.** During the Construction Phase and Decommissioning or Repowering Phase, the Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.2, 6.3, 6.4, and 6.5 into a Monthly 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. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program, cc'ing the Regional CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Brenda Blinn (Brenda.Blinn@wildlife.ca.gov), the Headquarters CESA Program email is CESA@wildlife.ca.gov, and the Regional CESA email is R3CESA@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.

- 6.7. 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 be prepared by the Designated Biologist and shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.6; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 6.8. Final Construction Phase Report.** No later than 45 days after completion of all Construction Phase activities, including SAMP and restoration activities during this Phase, Permittee shall provide CDFW with a Final Construction Phase Report. The Designated Biologist shall prepare the Final Construction Phase Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs during the Construction Phase; (2) a copy of the table in the MMRP with notes showing when each of the Conditions of Approval was implemented; (3) all available information about Project-related incidental take of the Covered Species due to construction; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how Conditions of Approval 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.
- 6.9. Final O&M Phase Report.** No later than 45 days after completion of all O&M Phase activities, including SAMP and restoration activities during this Phase, Permittee shall provide CDFW with a Final O&M Phase Report. The Designated Biologist shall prepare the Final O&M Phase Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs during the O&M Phase; (2) a copy of the table in the MMRP with notes showing when each of the Conditions of Approval was implemented; (3) all available information about Project-related incidental take of the Covered Species due to O&M; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered

Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how Conditions of Approval 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.

6.10. Final Decommissioning Phase Report. If decommissioning is selected, no later than 45 days after completion of all Decommissioning Phase activities, including restoration activities during this Phase, Permittee shall provide CDFW with a Final Decommissioning Phase Report. The Designated Biologist shall prepare the Final Decommissioning Phase Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs during the Decommissioning Phase; (2) a copy of the table in the MMRP with notes showing when each of the Conditions of Approval was implemented; (3) all available information about Project-related incidental take of the Covered Species due to decommissioning; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how Conditions of Approval 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. Final Repowering Phase Report. If repowering is selected, no later than 45 days after completion of all Repowering Phase activities, including restoration activities during this Phase, Permittee shall provide CDFW with a Final Repowering Phase Report. The Designated Biologist shall prepare the Final Repowering Phase Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs during the Repowering Phase; (2) a copy of the table in the MMRP with notes showing when each of the Conditions of Approval was implemented; (3) all available information about Project-related incidental take of the Covered Species due to repowering; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how Conditions of Approval 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.

6.12. Final Mitigation Report. No later than 45 days after completion of all Conditions of Approval, 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 Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the Conditions of Approval was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts

on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigation Project impacts of the taking on Covered Species; (7) recommendations on how Conditions of Approval 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.

- 6.13. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 30 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. The monthly reports shall include the cumulative number of Covered Species observations within the month and to date since the start of Covered Activities, a map of the Project Area showing locations of all Covered Species observations, and a map of the Project area showing locations of monthly Covered Species observations. Monthly maps should depict any wildlife exclusion fencing, ponded water, and numbered coverboards that were present in the Project Area within that month. The Designated Biologist shall submit a notification of Covered Species observation (including species name, date of observation and GPS coordinates) by email to the CDFW Regional Representative (Brenda.Blinn@wildlife.ca.gov) within 24 hours of the observation.
- 6.14. Notification of Take or Injury.** Permittee shall immediately notify the Designated Biologist if a Covered Species is taken (including relocation) 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 the CDFW Regional Representative via email at Brenda.Blinn@wildlife.ca.gov, cc'ing R3CESA@wildlife.ca.gov, and by calling the direct line to the CDFW Representative at (707) 339-0334 by the end of the business day. The initial notification to CDFW shall include information regarding the location, species, number of animals taken or injured, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, GPS location (including GPS error estimated in feet and datum) of the Covered Species, photographs of the location and the Covered Species, explanation as to cause of take or injury, and any other pertinent information.

6.14.1. California Tiger Salamander Salvage. If a California tiger salamander is found recently deceased, a ½-inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, shall be immediately bagged, labeled, and preserved in a freezer. The label shall include a unique identifier (collection number), species name, time and date of collection, collection location, GPS location (including datum and horizontal error in feet), circumstances surrounding death (if known), collector name and contact information (phone number or email), and ITP tracking number. Tail specimens shall be delivered to:

CDFW Bay Delta Region Attention: Brenda Blinn
2825 Cordelia Road, Suite 100
Fairfield, CA 94534

The remaining carcasses shall be delivered to the following address within two calendar days of the discovery:

CDFW Wildlife Investigations Lab Attention: Deana Clifford
1701 Nimbus Road, Suite D
Rancho Cordova, CA 95670

- 6.15. Additional Impacts to Habitat.** No habitat impacts beyond the permanent loss of 24.3 acres of upland habitat for the Covered Species and temporary loss of 328.4 acres of upland habitat for the Covered Species shall occur due to Covered Activities unless this ITP is amended by CDFW prior to additional impacts.
- 6.16. Temporary Impact Criteria.** To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the temporary impact (or by December 31 of the year of the temporary impact with prior written approval from CDFW) and no additional ground-disturbing activities shall occur; and (2) temporary impact sites shall have achieved vegetation success as described in the Vegetation Restoration Plan. (See Condition of Approval 6.18.)
- 6.17. Temporary Impact Restoration Schedule.** Prior to initiating any temporary impacts, Permittee shall develop a Temporary Impact Restoration Schedule that is designed to ensure: (1) removal of non-native substrate, recontouring, and seeding of temporary impact areas shall occur prior to October 31 of each year of the temporary impact (or by December 31 of the year of the temporary impact with prior written approval from CDFW); and (2) all temporary impacts from prior years shall have met the October 31 (or December 31 with prior written approval from CDFW) removal of non-native substrate, recontouring, and seeding criteria and shall have achieved vegetation success as described in the Vegetation Restoration Plan. (See Condition of Approval 6.18.)
- 6.18. Vegetation Restoration.** Permittee shall ensure that vegetation restoration is

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implemented and completed in a manner that meets the following standards: (i) restoration of Covered Species habitat that will be temporarily disturbed during Covered Activities to pre-Project or better conditions, and (ii) effectively controlling and monitoring invasive plants (and minimizing risk of introduction and/or spread of *Phytophthora* spp.). This Condition applies to restoration of temporary impacts associated with the Construction, O&M, Repowering, and/or Decommissioning Phases of the Project.

As part of restoration, Permittee shall oversee the management of invasive plants within the Project Area and may use control methods such as hand removal, light grubbing, mowing, or sheep grazing within seeding and planting areas following vegetation restoration. The Designated Biologist shall ensure that invasive plant removal does not result in damage to adjacent Covered Species habitat or to root systems of planted plants. Permittee shall ensure that all vegetation restoration meets the Performance Standards described in Condition of Approval 6.18.1.2.

6.18.1. Vegetation Restoration Plan. Permittee shall submit a Vegetation Restoration Plan to CDFW for review and approval at least 45 days prior to the start of restoration activities during the Project's Construction phase as well as the Project's Decommissioning or Repowering phase. Permittee shall not implement restoration activities until the Permittee has received written approval from CDFW of the Vegetation Restoration Plan. Permittee shall ensure that The Vegetation Restoration Plan includes:

6.18.1.1. Vegetation Sampling Methodology. The Designated Biologist qualified and approved by CDFW to conduct botanical surveys (Designated Botanist) shall develop and submit to CDFW for review and approval a Vegetation Sampling Methodology no later than 45 days prior to the start of baseline vegetation sampling (baseline monitoring).

The Vegetation Sampling Methodology shall include both a qualitative and quantitative assessment of vegetation species within the Project Area before ground-disturbing activities of the Construction phase (baseline monitoring) and after restoration within each applicable Project phase. Permittee shall ensure that data collection and analysis methodologies are appropriate: to document pre-Project baseline and post-restoration conditions within each applicable Project phase; to represent the entire Project Area that will be temporarily or semi-permanently impacted; to reflect species composition, percent cover, distribution, and general abundance of native, non-native, and Cal-IPC California Invasive Plant Inventory "High" or "Moderate" ranked invasive species (<https://www.cal-ipc.org/plants/inventory/>); and to document RDM at appropriate times of year.

6.18.1.2. Performance Standards. The Vegetation Restoration Plan shall include

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the following performance standards that the Permittee shall meet:

- 6.18.1.2.1.** Gravel and other non-native substrate shall be removed from restoration areas;
- 6.18.1.2.2.** To the maximum extent feasible, topsoil shall be salvaged from within on-site work areas prior to construction. Imported fill soils shall be limited to weed-free and pathogen-free topsoil similar in texture, chemical composition and pH to soils found at the reference site;
- 6.18.1.2.3.** Minor re-contouring may be conducted; however, Permittee shall limit grading compaction, fill, and other earthmoving activities to the Project Area. Soils shall be protected from wind erosion using a biodegradable erosion control blanket or appropriate mulch cover, or other appropriate methods approved by CDFW, until vegetation is established. Seed shall be applied in the early fall, typically between October 15 and October 31, or outside of this window with CDFW approval. If feasible, seed shall be applied immediately prior to the first rain event. Mulch and seed shall be weed-free and pathogen-free;
- 6.18.1.2.4.** Seed mixes shall be approved by CDFW prior to application and shall include a mix of locally native species, with an emphasis on native bunchgrasses and other grassland species including local, native wildflowers. Non-native forage species for sheep and/or chickens may be included in the seed mix, but no plant species ranked by Cal-IPC as High or Moderate invasive species may be included. For seeding and mulching exposed slopes, the seed blend may include one or two sterile non-native perennial grass species. Seed may be collected from within the Project Area. Additional seed shall be sourced from within 50 miles of the Project Area to the extent feasible (original genetic material collected within this radius); however, the seed may be purchased from a seed farm outside of this area if sourcing of original genetic material is infeasible. Seed mixes shall not have been treated with pesticides and shall be pathogen-free.
- 6.18.1.2.5.** Permittee shall complete seeding prior to winter rains, typically between October 15 and October 31 of the year of impact (or by December 31 of the year of the impact with prior CDFW approval). At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or

mulch as soon as is practical on a date mutually agreed upon. Straw and/or mulch that is used shall be weed-free and pathogen-free.

6.18.1.2.6. No more than 15 percent of the vegetation in the temporarily disturbed areas subject to restoration criteria shall consist of species ranked as High or Moderate invasive by Cal-IPC. If the presence of invasive species exceeds this threshold, Permittee shall be responsible for conducting appropriate control activities in coordination with CDFW and the property owner.

6.18.1.3. Monitoring and Maintenance. Permittee shall be responsible for monitoring and maintaining the restored areas for a period of three years or until the Vegetation Restoration Plan success criteria have been met, whichever is longer. After the first six months following completion of restoration activities, Permittee shall submit a brief monitoring report (10 pages or less, not including figures) detailing vegetation establishment, percent invasive plant cover, and other relevant observations regarding success of the restoration project to CDFW.

If the survival and/or cover requirements are not meeting the performance standards outlined in Condition of Approval 6.18.1.2, Permittee is responsible for replacement planting, additional watering, weeding, invasive plant eradication, or any other practice necessary to achieve these requirements. Permittee shall submit annual restoration reports by December 31 to CDFW until the standards have been met. Replacement plantings shall be monitored with the same survival and growth requirements for three years after planting.

6.19. Updated Sustainable Agricultural Management Plan (SAMP). The Permittee shall submit to CDFW for review and approval an updated SAMP that incorporates details to comply with Conditions of Approval 6.19.1 through 6.19.3 no later than 120 days prior to implementation of SAMP activities. SAMP activities associated with this section shall not be implemented until the Permittee has received written approval of the Final SAMP from CDFW. The updated SAMP shall include the following:

6.19.1. Alignment of Grassland Management with Vegetation Restoration Plan. In order to count acreage under grassland management as a temporary impact, Permittee shall ensure that grassland management initiated under the SAMP follows Performance Standards and reporting requirements in Conditions of Approval within 6.18 and of 6.19.2.

6.19.2. Disking, Mowing, and Grazing. The updated SAMP shall include specifications designed to minimize impacts of disking, mowing, and grazing on Covered Species. Disking, mowing, and sheep and/or chicken grazing shall occur when Covered Species are least likely to be impacted by the activity. (See also

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Condition of Approval 7.1.) Mowing shall be limited to 4 inches height. (See also Condition of Approval 7.2.) Grazing shall target 4 inches height and RDM in a manner that limits impacts to Covered Species, including impacts from erosion. If vegetation is at heights greater than 4 inches prior to disking, mowing in the impact area shall precede disking to increase visibility of Covered Species that may be present. Disking shall be used only for seeding during grassland restoration following initial Project construction and seeding during grassland restoration following decommissioning or repowering. Disking will be limited to 2 inches depth.

6.19.3. Grazing Outside of Security Fencing. Chicken grazing shall not take place outside of Project security fencing.

6.20. Tracking Impacts. Permittee shall track temporary and permanent impacts and notify CDFW if take authorization is likely to be exceeded in the coming month(s). Permittee shall submit an appropriately revised Project Phase schedule (Condition of Approval 6.21) within seven days in order to ensure temporary impacts remain within the temporary impact criteria according to Condition of Approval 6.16. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.

6.20.1. Exceedance of Take Authorization. If Permittee or CDFW determines that the take authorization for temporary or permanent impacts has been exceeded, CDFW may issue a Stop-Work Order as described in Section X of this ITP.

6.21. Phase Schedules. Permittee shall submit to CDFW final Covered Activity Schedules specific to each Project Phase according to the following Conditions of Approval:

6.21.1. Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. The construction schedule shall identify the approximate beginning and completion date of Covered Activities to take place during the Construction Phase (including construction activities, SAMP activities, and construction-related restoration activities). During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven days prior to the change being implemented.

6.21.2. O&M Schedule. Permittee shall submit a final O&M schedule to CDFW within 15 calendar days prior to the start of Project O&M activities. The O&M schedule shall identify the approximate beginning and completion date of Covered Activities to take place during the O&M Phase (including routine O&M activities, SAMP activities, and O&M-related restoration activities).

6.21.3. Decommissioning or Repowering Plan. Permittee shall submit either a Decommissioning Plan or Repowering Plan to CDFW for review and approval no less than 6 months prior to the start of Covered Activities associated with

decommissioning or repowering. Decommissioning or repowering shall not proceed until CDFW has approved in writing the respective Decommissioning Plan or Repowering Plan. The Decommissioning or Repowering Plan will describe the restoration of the Project Area to pre-Project or better conditions in accordance with the general Vegetation Restoration Plan (Condition of Approval 6.18) and Performance Standards (Condition of Approval 6.18.1.2). The Decommissioning or Repowering Plan will also provide updated maps and impacts assessment (acreage), and a schedule with approximate beginning and completion dates of Covered Activities associated with decommissioning or repowering including restoration. Permittee shall notify CDFW of any major changes in the decommissioning or repowering schedule at least seven days prior to the change being implemented. If impacts are expected to exceed 22 acres of temporary impacts, an amendment to this ITP or a new Incidental Take Permit will be required.

- 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. Vegetation Management.** Disturbance or removal of vegetation shall be kept to the minimum necessary to complete Covered Activities. Vegetation marked for protection may only be trimmed with hand tools to the extent necessary to gain access to work sites. Permittee shall set mower blade heights no lower than 4 inches, unless otherwise approved by CDFW in writing. Permittee shall ensure to the extent feasible that mowing and/or grazing only occur when Covered Species are dormant or less active on the surface. (See also Condition of Approval 6.19.2.)
- 7.2. Mowing Prior to Ground-Disturbing Activities.** Prior to ground-disturbing Covered Activities (including but not limited to grading, trenching or disking), Permittee shall mow vegetation to 4-inch height to the width necessary to accommodate construction equipment and a walking buffer to facilitate locating and avoiding burrows and Covered Species.
- 7.3. Burrow Avoidance.** During installation and placement of Project infrastructure (including, but not limited to water tanks and irrigation lines, fencing, and solar facility and BESS equipment), Permittee shall avoid fossorial mammal burrows to the maximum extent practicable.
- 7.4. Photovoltaic Panel Washing.** Permittee will ensure that water used for PV panel washing will be free of chlorine and/or other components that could negatively impact Covered Species. If water is treated on-site prior to use in PV panel washing, associated wastewater shall be properly disposed of off-site. Permittee shall keep the amount of water used in PV panel washing to the minimum amount needed and shall not allow water to form puddles or inundate rodent burrows.

- 7.5. Covered Species Checks.** During ground-disturbing activities and decommissioning or repowering, the Designated Biologist or Biological Monitor shall check for California tiger salamander individuals before the start of work each morning under all vehicles, equipment, materials, or otherwise suitable locations for a California tiger salamander to hide. Workers shall inspect under vehicles and equipment for California tiger salamanders before the vehicles and equipment are moved. If a California tiger salamander is present, the worker shall notify the Designated Biologist. The Designated Biologist or Biological Monitor shall inspect all ruts and holes near root structures, foundations, abutments, etc., for California tiger salamanders prior to and during excavation or removal. If a California tiger salamander is discovered, the Designated Biologist shall relocate the individual as required by Conditions of Approval 7.8, 7.9, and 7.10.
- 7.6. Inspection of Pipes and Similar Structures.** Permittee shall ensure that all construction pipes or similar structures with a diameter of 2 inches or greater (including any hollow openings of battery storage containers) and are stored in the Project Area for one or more overnight periods shall be either securely capped prior to storage or thoroughly inspected by the Designated Biologist and/or Biological Monitor for California tiger salamanders or other animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a California tiger salamander is found, the Designated Biologist shall relocate the individual as described in Conditions of Approval 7.8, 7.9, and 7.10.
- 7.7. Open Excavations.** During ground-disturbing activities of construction, O&M (as applicable), and decommissioning or repowering, to prevent inadvertent entrapment of California tiger salamanders, the Designated Biologist or Biological Monitor shall check all open excavations, including but not limited to open holes and trenches more than 6-inches deep, for trapped animals no later than 9:00 AM each day. During the workday, before any open trenches or holes are filled, the Designated Biologist or Biological Monitor shall thoroughly inspect the trenches or holes for California tiger salamander. At the close of each working day, the Designated Biologist or Biological Monitor shall check open excavations and ensure that all excavated, steep-walled holes or trenches more than 6 inches deep are provided with one or more escape ramps constructed of earthen fill or wooden planks with a slope of 3:1 (run:rise), or are covered with boards or metal plates placed flush to the ground with edges overlaid by loose dirt leaving no gaps for Covered Species entry. If a California tiger salamander is found, the Designated Biologist shall move the individual as required by Conditions of Approval 7.8, 7.9, and 7.10.

If any open holes, trenches or other excavations greater than 6 inches deep cannot be covered or fitted with escape ramps as described above, then Permittee shall install temporary exclusion fence around these trenches, holes, or other excavations to prevent California tiger salamander from becoming trapped. Permittee shall provide refuge opportunities, such as coverboards (2-foot x 3-foot or larger plywood), on the outside perimeter of the barrier.

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- 7.8. California Tiger Salamander Relocation.** The Designated Biologist shall relocate any California tiger salamander found within the Project Area to an active rodent burrow system located no more than 300 feet outside of the Project Area unless otherwise approved by CDFW in writing. The Designated Biologist shall document both the capture and relocation areas by photographs and GPS positions. The California tiger salamander shall be photographed and measured in millimeters (snout-vent) for identification purposes prior to relocation. The Designated Biologist shall provide all documentation to the CDFW Regional Representative within 24 hours of California tiger salamander relocation.
- 7.9. California Tiger Salamander Relocation Plan.** The Designated Biologist shall prepare a California Tiger Salamander Relocation Plan (Relocation Plan). The Relocation Plan shall include, but not be limited to, an identification of the survey and hand excavation, capture, handling, and relocation methods, and identification of where the individuals will be relocated to. Relocation areas shall be identified by the Designated Biologist based upon best suitable habitat available and time of year and approved by CDFW prior to the start of Covered Activities. The Relocation Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist is authorized to capture and handle the Covered Species.
- 7.10. California Tiger Salamander Handling and Injury.** California tiger salamander shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) (Attachment 2). If an injured California tiger salamander is found during the Project term, the individual shall be evaluated by the Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured California tiger salamander shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts, then the following steps shall be taken by the Designated Biologist:
- 7.10.1.** If the injury is minor or healing and the California tiger salamander is likely to survive, the salamander shall be released immediately in accordance with the Conditions of Approval 7.8, 7.9, and 7.10.
- 7.10.2.** If it is determined that the California tiger salamander has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW approved facility. If taken into captivity, the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by CDFW and U.S. Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured

California tiger salamander. The Permittee shall document the circumstances of the injury, the procedure followed, and the final disposition of the injured animal in a written incident report as described in Condition of Approval 6.14.

- 7.11. Temporary Exclusion Fencing.** Prior to commencing Covered Activities, Permittee shall install temporary exclusion fencing according to the approved Temporary Exclusion Fence Plan (Condition of Approval 7.12) to prevent California tiger salamanders from dispersing into the Project Area. Within each Project Phase, Permittee shall ensure that temporary exclusion fencing is installed around the footprint of all planned vegetation- and ground-disturbing Covered Activities, including but not limited to disking and seeding involved with restoration and excluding sheep grazing and chicken rearing. Permittee shall ensure that exclusion fencing remains in place until Permittee has completed the related vegetation- and/or ground-disturbing Covered Activities and removed related equipment from that footprint. Permittee shall remove temporary exclusion fencing at the culmination of related activities, but no later than the start of the wet season (generally November 1 to April 30), as described in Condition of Approval 7.16. Limited construction activity may continue into the wet season; however, such wet season construction shall be subject to compliance with Condition of Approval 7.16. To limit barriers to California tiger salamander movement imposed by temporary exclusion fencing, exclusion fencing may be installed and removed in stages (enclosed subsets of fencing) as vegetation- and ground-disturbing activities progress across the Project Area.
- 7.12. Temporary Exclusion Fence Plan.** Permittee shall submit to CDFW for review and approval a Temporary Exclusion Fence Plan describing the location and design of the temporary exclusion fencing and refugia, and survey method to inspect refugia, no less than 30 days prior to the start of Covered Activities. Permittee shall not install temporary exclusion fencing until receiving written approval of the plan from CDFW.
- 7.12.1.** Permittee shall design temporary exclusion fencing to allow California tiger salamanders to leave the Project Area through one-way funnels or another method approved by CDFW.
- 7.12.2.** Permittee shall provide refuge opportunities such as coverboards (2-foot x 3-foot or larger plywood) or pitfall traps along both sides of the exclusion fence. (If Permittee chooses to use pitfall traps, these shall be placed on the interior of the fence only and coverboards shall be placed on the exterior of the fence.)
- 7.12.3.** The Designated Biologist shall inspect the temporary exclusion fencing for damage and for California tiger salamander by 9:00 AM daily, and during and after rain events.
- 7.12.4.** The Designated Biologist shall relocate animals found within the interior fence or in refugia along the fence to a pre-determined location outside the fence line no more than 300 feet from the Project boundary per the Relocation Plan described in Conditions of Approval 7.8, 7.9, and 7.10.

7.12.5. The Designated Biologist shall communicate temporary exclusion fence condition and type and location of needed repairs orally, followed up in writing (email), to the Permittee upon completion of each fence inspection. These communications shall be appended to Daily Compliance Monitoring Reports. Permittee shall maintain and repair the temporary exclusion fencing immediately to ensure that it is functional and without defects.

7.12.6. If initial site grading and restoration of temporary impacts (Conditions of Approval 6.18) is not completed in the Project Area by October 31, then temporary exclusion fencing shall be installed between any ungraded and graded portions of the planned grading footprint.

7.12.7. Temporary exclusion fencing in place between November 1 and April 30 shall be considered a semi-permanent impact (Conditions of Approval 6.15 and 8) because it may impede potential California tiger salamander movement to breeding ponds. If temporary exclusion fencing is in place between November 1 (or December 31 with prior approval by CDFW) and April 30, the Permittee shall adjust impacts assessment in consultation with CDFW (Conditions of Approval 6.15 and 7.16).

If work is approved by CDFW outside of the dry-season work window required in Condition of Approval 7.14, the following shall apply: Any work site located within 2,000 feet of potential California tiger salamander breeding habitat, including where equipment will be stored overnight, shall be completely fenced with wildlife exclusion fencing. All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads.

7.13. Barriers to Movement. As part of infrastructure construction, the Permittee shall not install curbs or other barriers to California tiger salamander movement (except surrounding the Detention Basin, where barrier to California tiger salamander movement is intentional; Condition of Approval 7.13.2).

7.13.1. Roads. Permittee shall construct roadways such that there are no steep curbs, berms, straw wattles, or dikes that could prevent California tiger salamander from crossing or exiting the roadway. If curbs, berms, and/or straw wattles are necessary for safety and/or surface runoff, Permittee shall design and construct them to allow California tiger salamander to walk over them. If steep dikes are required, Permittee shall design and construct them to include over-side drains or curb/dike breaks spaced at intervals of 16.4 to 32.8 feet to allow California tiger salamander passage.

7.13.2. Detention Basin. Permittee shall install a permanent barrier to minimize potential for California tiger salamander movement into the Detention Basin. Permittee shall submit a Detention Basin Permanent Barrier Plan to CDFW no later than 30 days prior to the start of Covered Activities.

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- 7.14. Dry Season Work Restriction.** During the Dry Season of May 1 to October 31 of each year until the expiration of this ITP, Permittee shall limit Covered Activities involving ground disturbance and heavy equipment use (including but not limited to excavation, grading, contouring, trenching, road construction and repair, or disking) to periods of low rainfall (less than 0.10 inches per 24-hour period). If rain exceeds 0.10 inches during a 24-hour period, work shall cease. Construction may resume 24 hours after the rain ceases when there is a less than 40 percent chance of precipitation in the National Weather Service (NWS) 24-hour forecast for the Project Area (<https://forecast.weather.gov/MapClick.php?lat=37.69&lon=-121.76&unit=0&lg=english&FcstType=graphical>), and humidity, as measured locally on-site under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept on-site and subject to inspection.
- 7.15. Seasonal Work Window.** Permittee shall limit ground-disturbing Covered Activities involving heavy equipment use (including but not limited to excavation, grading, contouring, trenching, road construction and repair, or disking) from May 1 to October 31 (Dry Season, “seasonal work window”) until the expiration of this ITP, except as otherwise defined in Conditions of Approval of this ITP.
- 7.16. Seasonal Work Window Extension.** Covered Activities involving ground-disturbing and heavy equipment use (including but not limited to excavation, grading, contouring, trenching, road construction and repair, or disking) during the wet season (November 1 to April 30) shall be subject to written approval of CDFW. Permittee shall submit requests for extension to the CDFW Regional Representative at least 14 days prior to the desired wet-season start date of Covered Activity. Construction activity that is limited to non-ground-disturbing activities (such as above-ground electrical work, racking of solar panels, or limited driving on improved accessways within the Project Area) is not prohibited within the wet season.

If CDFW approves wet-season work, Permittee shall monitor the NWS 48-hour hourly forecast for the Project Area (<https://forecast.weather.gov/MapClick.php?lat=37.69&lon=-121.76&unit=0&lg=english&FcstType=graphical>) and shall ensure that Covered Activities involving ground-disturbing activities and heavy equipment cease 24 hours prior to a 40-percent or greater forecast of precipitation. Covered Activities may resume 24 hours after the precipitation ceases if there is less than a 40 percent chance of precipitation in the 24-hour forecast for the Project Area. If CDFW approves wet-season work, the Designated Biologist shall survey the Project Area each day precipitation is forecast and the morning after all precipitation events.

If work during the wet season delays restoration of temporarily disturbed areas past December 31 of the year of impact, the Permittee shall recategorize these areas as semi-permanent or permanent impacts depending on the timing of restoration and achievement of performance standards. (See Condition of Approval 6.18.1.2.) In this circumstance, Permittee shall adjust impacts assessment in consultation with CDFW

(Condition of Approval 6.15).

- 7.17. Daily Work Window.** Permittee shall terminate all Covered Activities 30 minutes before sunset and shall not resume Covered Activities until 30 minutes after sunrise during California tiger salamander migration/active season from November 1 to June 15. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area where the project is located to determine when Covered Activities shall terminate and resume.
- 7.18. Nighttime Activities and Artificial Lighting.** If nighttime work cannot be avoided, Permittee shall, at least 24 hours prior to proposed nighttime activities, obtain written approval from CDFW prior to working during non-daylight hours. Permittee's written request to CDFW to perform nighttime work shall outline the extent of activities and minimization measures specific to the request (for example, monitoring, surveys, etc.). Permittee shall ensure that nighttime work is limited in extent, duration, and brightness to the minimum amount necessary to complete the approved nighttime work. Except when necessary for emergency work, Permittee shall ensure that no earthmoving activities or overland travel take place during nighttime work. Except when necessary for emergency work or driver/pedestrian safety, Permittee shall minimize artificial lighting in the Project Area during nighttime hours to the minimum amount necessary to complete the approved nighttime work. Permittee shall ensure that lighting is faced downward and is only used in the immediate workspace. Permittee shall suspend all nighttime work during rain events.
- 7.19. Notification of Non-Native Tiger Salamanders or Hybrids.** The Designated Biologist shall immediately notify CDFW if a non-native tiger salamander (tiger salamander, *Ambystoma tigrinum*; barred tiger salamander, *A. mavortium*; or plateau tiger salamander, *A. velasci*) or California tiger salamander hybrid is found or suspected within the Project Area within 24 hours by calling CDFW's Regional Representative. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Covered Species Handling and Injury measures outlined in this ITP. (See Condition of Approval 7.10.)

8. Habitat Management Land Acquisition and Restoration:

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

To meet this requirement, the Permittee shall either purchase 453 acres of Covered

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Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 8.2) within the East Alameda County Conservation Strategy (EACCS) CTS North mitigation area (Chapter 3, Figure 3-10, dated October 2010) OR shall provide for both the permanent protection and management of 453 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4.

Permittee shall provide compensatory habitat consistent with the conservation priorities and mitigation ratios described in EACCS for the Covered Species as confirmed by CDFW. Therefore, the amount of HM lands required may be adjusted by CDFW to reflect any corrections made to mitigation ratios based on EACCS habitat scoring of the mitigation site.

Additional credits may be required if the CDFW-approved conservation bank site is outside the EACCS CTS North mitigation area described above. Additional credits may also be required if the Project is not within the Service Area of the CDFW-approved conservation bank. Permittee shall provide CDFW with a copy of the credit purchase agreement for the required credits prior to commencing Covered Activities.

Purchase of Covered Species credits OR permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations.

Permittee shall also restore on-site 350.4 acres of temporarily impacted Covered Species habitat (328.4 acres from construction, and 22.0 acres from decommissioning or 11.7 acres from repowering) pursuant to Conditions of Approval 8.6 and 8.7 below. If any temporary impacts do not meet the criteria identified in ITP Conditions of Approval 6.16 and 6.17, then CDFW shall require compensatory mitigation to offset the additional Project temporal impacts. If Permittee does not complete seeding of temporary impact areas by October 31 (or by December 31 with prior approval from CDFW) of the year of the impact, unless otherwise approved by CDFW, but restores impact areas within two years of the impact consistent with Conditions of Approval 6.16 and 6.18, then CDFW shall consider those disturbed areas as semi-permanent and require compensatory mitigation at a 2:1 ratio (acres of mitigation: acres of impact). If Permittee does not restore areas considered temporarily disturbed within two years, then CDFW shall consider those areas as permanent impacts and require compensatory mitigation at a 3:1 ratio (acres of mitigation: acres of impact).

No take beyond the permanent loss of 24.3 acres and the temporary loss of 395.8 acres of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts. The mitigation requirement will be identified by CDFW in writing and shall be subject to an amendment as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable regulations and law.

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- 8.1. Cost Estimates.** For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:
- 8.1.1.** Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$20,000/acre for 453 acres: **\$9,060,000.00**. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;
 - 8.1.2.** Start-up costs for HM lands, including initial site protection and enhancement as described in Condition of Approval 8.3.6 below, estimated at **\$250,000.00**;
 - 8.1.3.** Interim management period funding as described in Condition of Approval 8.3.7 below, estimated at **\$450,000.00**;
 - 8.1.4.** Long-term management funding as described in Condition of Approval 8.4 below, estimated at \$4,800.00/acre for 453 acres: **\$2,174,400.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation 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 transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.5, estimated at **\$3,000.00**.
 - 8.1.6.** Restoration of on-site temporary impacts to Covered Species habitat due to construction as described in Condition of Approval 8.6, calculated at \$3,500.00/acre for 328.4 acres: **\$1,149,400.00**.
 - 8.1.7.** Restoration of on-site temporary impacts to Covered Species habitat due to decommissioning or repowering as described in Condition of Approval 8.7, calculated at \$3,500.00/acre for 22.0 acres: **\$77,000.00**.
 - 8.1.8.** All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work **\$100,000.00**.
- 8.2. Covered Species Credits.** If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall purchase 453 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months

from the issuance of this ITP if Security is provided pursuant to Condition of Approval 9 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.

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

- 8.3.1. Fee Title.** Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.
- 8.3.2. Conservation Easement.** If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended, and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the “doctrine of merger” could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.
- 8.3.3. HM Lands Approval.** Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project’s impacts on Covered Species. HM lands shall meet the minimum habitat requirements for the Covered Species including, but not limited to, (i) one or more aquatic features on-site which have been documented to support successful California tiger salamander breeding in an average or below average rainfall year (abundance and distribution), or adjacent to aquatic features which have been documented to support successful California tiger

salamander breeding in an average or below average rainfall year (abundance and distribution) and already conserved and managed to the satisfaction of CDFW for the Covered Species, and (ii) no less than 100 acres of suitable upland habitat or adjacent to suitable upland habitat already conserved and managed for California tiger salamander.

- 8.3.4. HM Lands Documentation.** Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents. (Please contact CDFW for document list.) All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.
- 8.3.5. Land Manager.** Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.
- 8.3.6. Start-up Activities.** Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum:
- (1) preparing a final management plan for CDFW approval (<https://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;
- 8.3.6.1.** The final management plan shall include:
- 8.3.6.1.1.** Implementation of grazing management that targets the maintenance of suitable dispersal and upland habitat for the Covered Species.
 - 8.3.6.1.2.** Prohibition of pesticides, including but not limited to herbicides and rodent control, unless approved in advance in writing by CDFW as described in Condition of Approval 5.12.
- 8.3.7. Interim Management (Initial and Capital).** Provide for the interim management of

the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, vegetation and invasive species management, pond monitoring, potential remedial measures and costs, Covered Species surveys, trespass management, and grazing management.

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

- 8.4. Endowment Fund.** If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 8.3.6. 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)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).

- 8.4.2. Calculate the Endowment Funds Deposit.** After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)). One endowment assessment is to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). A second endowment assessment is calculated for the conservation easement grantee to perform its monitoring and reporting duties. The Permittee shall submit to CDFW for review and approval of the results of the two endowment assessments 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 endowment assessment and adjust for any additional administrative, periodic, or annual fees.

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

- 8.4.2.2.1. 10 Percent Contingency.** A 10 percent contingency shall be added to each endowment calculation to hedge against

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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.

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

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

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

8.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

8.6. Construction Habitat Restoration. Permittee shall restore on-site the 328.4 acres of

Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions (refer to Condition of Approval 6.18).

- 8.7. Decommissioning or Repowering Habitat Restoration.** Permittee shall restore on-site the 22.0 acres of Covered Species habitat that will be temporarily disturbed during decommissioning or repowering to pre-Project or better conditions (refer to Condition of Approval 6.18).
- 9. Security:** The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:
- 9.1. Security Amount.** The Security shall be in the amount of **\$13,263,800.00** or in the amount identified in Condition of Approval 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 8.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring. The total security amount of **\$13,186,800.00** identified under Conditions of Approval 8.1.1 to 8.1.6 and 8.1.8 shall be provided to CDFW per the timeline required under Condition of Approval 9.3. The security amount of **\$77,000.00** identified under Condition of Approval 8.1.7 shall be provided to CDFW within 60 days prior to the start of Covered Activities associated with decommissioning or repowering.
- 9.2. Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 9.3. Security Timeline.** The Security shall be provided to CDFW within 30 days prior to the start of Covered Activities.
- 9.4. Security Holder.** The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 9.5. Security Transmittal.** Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.
- 9.6. Security Drawing.** The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 9.7. Security Release.** The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as

evidenced by:

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

OR

- 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;
- Satisfactory demonstration of completion of performance standards (Condition of Approval 6.18.1.2) of the Phase-specific on-site restoration; and
- Timely submission of all required reports.

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

IX. Amendment:

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

X. Stop-Work Order:

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

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or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, regardless of whether that species is a Covered Species under this ITP. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 30 additional days.

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

XI. Compliance with Other Laws:

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

XII. Notices:

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 (2081-2021-093-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Erin Chappell, Regional Manager
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
Telephone (707) 428-2002
R3CESA@wildlife.ca.gov

and a copy to:

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

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

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Brenda Blinn
 California Department of Fish and Wildlife – Bay Delta Region
 2825 Cordelia Road, Suite 100
 Fairfield, CA 94534
 Telephone (707) 339-0334
Brenda.Blinn@wildlife.ca.gov

XIII. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, Alameda County. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Aramis Solar Energy Generation and Storage Final Environmental Impact Report (EIR; SCH No.: 2020059008), dated November 2020, that Alameda County certified for Aramis Solar Energy Generation and Storage Project on March 4, 2021. At the time the lead agency certified the EIR and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

XIV. Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Aramis Solar Energy Generation and Storage Final Environmental Impact Report, the results of consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;

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- (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) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 453 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

XV. Attachments:

- FIGURE 1 Regional Setting of Project
- FIGURE 2 Project Layout
- FIGURE 3 Sustainable Agricultural Program

- ATTACHMENT 1 Mitigation Monitoring and Reporting Program
- ATTACHMENT 2 Biologist Resume Form
- ATTACHMENT 3 Letter of Credit Form
- ATTACHMENT 4 Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

ON 5/28/2024

DocuSigned by:
Erin Chappell
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Erin Chappell, Regional Manager
Bay Delta Region

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