



**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. 2081-2022-088-03

**CALISTOGA RIVERSIDE PONDS RELOCATION 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 take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> 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.)

<b>Permittee:</b>	<b>City of Calistoga</b>
<b>Principal Officer:</b>	<b>Derek Rayner, Public Works Director (707) 942-2828 <a href="mailto:DRayner@ci.calistoga.ca.us">DRayner@ci.calistoga.ca.us</a></b>
<b>Contact Person:</b>	<b>Hamid Heidary, Senior Civil Engineer (707) 942-2784 <a href="mailto:HHeidary@ci.calistoga.ca.us">HHeidary@ci.calistoga.ca.us</a></b>
<b>Mailing Address:</b>	<b>414 Washington Street Calistoga, CA 94515</b>

**II. Effective Date and Expiration Date of this ITP:**

This ITP is effective as of 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, 2028**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 7.9 of this ITP.

<sup>1</sup>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".])

<sup>2</sup>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 Calistoga Riverside Ponds Relocation Project (Project) is located along the Napa River and Simmons Creek within the City of Calistoga, County of Napa (See Figure 1). The Project is located approximately 1.2 miles southeast of the intersection of Lincoln Avenue and Washington Street, City of Calistoga, at approximately 38.571349°N, -122.559073°W. The Project site is bounded by Dunaweal Lane to the east, agricultural land to the west, the Napa Valley Vine Trail to the north, and the Napa River to the south. The Project is located within the Calistoga, CA U.S. Geological Survey 7.5 Minute topographic quadrangle map and in Sections 5 and 6 of Township 8 North, Range 6 West.

### IV. Project Description:

The Project is designed to protect riverside water treatment ponds and wastewater treatment plant (WWTP) infrastructure. The Project includes realignment of the Simmons Creek channel away from infrastructure, stabilization of Simmons Creek banks between the riverside ponds and the headworks structures, and stabilization of the adjacent active Napa River channel to protect the water treatment ponds and associated facilities from erosion. Construction within the wetted portion of Simmons Creek and the Napa River will be completed within one season from June 15 through October 31. Project staging will occur in uplands on site and off site. The Project also includes relocating and replacing the four existing water treatment ponds with two new water treatment ponds and stabilizing and armoring the Oat Hill Mine Ditch tributary to the Napa River. Access will occur along an existing paved driveway that connects to Dunaweal Lane to the east.

#### *Realignment of Simmons Creek*

To protect the WWTP headworks structures from failure due to bank erosion and flooding, approximately 120 linear feet of Simmons Creek will be realigned westward away from the WWTP headworks structures, and the channel banks will be stabilized and restored. Following channel realignment, planted rock slope protection will be installed along approximately 242 linear feet of the toe of the eastern bank of Simmons Creek. Approximately 240 linear feet of the western bank will be graded to between a 2:1 to 3:1 slope and the bank will be stabilized with rock slope protection planted with native riparian vegetation. The engineered channel bottom will include a series of rock crests, spaced approximately 20 feet apart, crossing the channel bottom. The crests will consist of buried and exposed rock and boulders. Properly sized river cobble will line the new channel bottom.

Temporary dewatering of a 242-foot-long segment Simmons Creek will be required to realign the channel and stabilize the banks. Cofferdams will be placed immediately upstream and downstream of the work area. The water diversion system may include screened pumps, a temporary pipe network, siltation baffles, and cofferdams to route flow around the immediate work area, maintain dewatering conditions, and return flow to the downstream channel. A Dewatering and Covered Species Rescue Plan will be implemented to rescue the Covered Species and other aquatic species. If groundwater is encountered in the in-channel work area it will be removed and pumped to a temporary desilting basin in uplands, temporary sediment

settling tank, or a similar temporary facility. Following adequate settling time, the water will be released in uplands or pumped downstream at an appropriate rate to maintain downstream flows.

### *Stabilization of Napa River Bank*

Activities to stabilize a portion of the northern bank of the Napa River include re-grading the northern bank's slope and installing rock slope protection at an existing stormwater outfall. Approximately 400 linear feet at the toe of the northern bank of the Napa River will be graded to a 2:1 to 3:1 slope and, within this area, approximately 348 square feet (10 linear feet) of rock slope protection will be installed to protect the stormwater outfall.

Temporary dewatering of up to a 400-foot-long segment of the north side of the Napa River, if it is not dry at the time of construction, will be required to re-grade its northern bank and protect the stormwater outfall (dewatering will not occur on the south side of the Napa River, allowing flows to continue on the south side). At the beginning of construction within the north side of the Napa River, erosion control fencing and a sandbag cofferdam will be installed by hand along the northern channel bank at the base of the work area to exclude river flows from the work area. The fencing and cofferdam will be used to prevent sediment and debris from entering the Napa River during grading and stabilization of the channel bank. A Dewatering and Covered Species Rescue Plan will be implemented as described above for Project activities at Simmons Creek. Following construction, the silt fence and cofferdam will be removed from the Napa River. Any loose debris trapped by the silt fence will be removed from the river channel and disposed of outside of the riparian area at an appropriate location. If groundwater is encountered in the in-channel work area it will be removed and pumped to a temporary desilting basin in uplands, temporary sediment settling tank, or a similar temporary facility.

Additional grading will occur in the uplands adjacent to the north bank of the Napa River to relocate and replace the four existing water treatment ponds with two new lined water treatment ponds. Grading will extend along much of the upper bank on the north side of the Napa River within the Project Area to create a more stable grade and prevent further erosion.

### *Oat Hill Mine Ditch*

Activities to stabilize Oat Hill Mine Ditch include re-grading the north-eastern bank's slope and installing rock slope protection and planting with riparian vegetation. Approximately 250 linear feet of Oat Hill Mine Ditch will be dewatered if it is not dry and armored with rock slope protection and planted with native riparian vegetation. Additional grading will occur along Oat Hill Mine Ditch and in the immediately adjacent uplands. A waterfall functioning as a passage barrier separates Oat Hill Mine Ditch from the Napa River.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> <sup>3</sup>
California freshwater shrimp ( <i>Syncaris pacifica</i> )	Endangered <sup>4</sup>

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 approximately 84 days of temporary dewatering of approximately 242 linear feet (0.056 acres) of Simmons Creek and approximately 400 linear feet (0.10 acres) of the northern bank of the Napa River over one construction season (see Figure 2); removal of riparian vegetation; placement of rock slope protection; capturing, handling, and relocating the Covered Species; and surveying for the Covered Species (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 dewatering and habitat alteration. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species during temporary dewatering, aquatic species rescue operations, and monitoring. Additional indirect impacts may occur due to minor changes in local drainage patterns, reducing water quality due to increased turbidity, inhibiting movement, and potential changes to flow velocity. The areas where authorized take of the Covered Species is expected to occur include the 242-foot-long section (0.056 acres) of wetted channel of Simmons Creek and the 400-foot-long section (0.10 acres) of the wetted channel of the Napa River, within the 10.48-acre Project site (collectively, the Project Area).

The Project is expected to cause the permanent loss 130 linear feet (0.035 acres) of aquatic habitat for the Covered Species habitat as outlined below:

- 120 linear feet (0.027 acres) from realignment of Simmons Creek
- 10 linear feet (0.008 acres) from installing rock slope protection at the existing stormwater outfall within the north bank of the Napa River

The Project is expected to cause the temporary loss of 512 linear feet (0.129 acres) of

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

<sup>4</sup>See Cal. Code Regs., tit. 14, § 670.5, subd. (a)(1)(A).

aquatic habitat for the Covered Species habitat as outlined below:

- 122 linear feet (0.029 acres) from dewatering activities along Simmons Creek
- 390 linear feet (0.10 acres) from dewatering activities along the north bank of the Napa River

Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: capture and relocation, capture and release for monitoring, harassment resulting from noise and ground vibration during heavy equipment operation, long-term effects due to increased manmade substrate, and increased vulnerability to predation and displacement from preferred habitat.

### **VII. Incidental Take Authorization of Covered Species:**

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

### **VIII. Conditions of Approval:**

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration and Initial Study (SCH No.: 2019089100) adopted by the City of Calistoga on December 11, 2019, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed

Alteration Agreement (LSAA) (Notification No. 1600-2020-0022-R3) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.

- 4. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the U.S. Fish and Wildlife Service (USFWS) Biological Opinion for the Formal Consultation on the Calistoga Riverside Ponds Relocation Project in the City of Calistoga, Napa County, California (Corps File Number: 2019-00368); File No. 08ESMF00-2021-F-0967 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.
- 5. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
- 6. General Provisions:**
  - 6.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
  - 6.2. Designated Biologist(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) using the Biologist Resume Form (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=202869>) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) must be changed.
  - 6.3. 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 his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.

- 6.4. 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.
- 6.5. Construction Monitoring Documentation.** The Designated Biologist(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.
- 6.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.

- 6.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 6.9. Delineation of Property Boundaries.** Before starting Covered Activities Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities.
- 6.10. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.11. Project Access.** Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.
- 6.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 6.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction



refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

## **7. Monitoring, Notification, and Reporting Provisions:**

- 7.1. 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.
- 7.2. 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.
- 7.3. Compliance Monitoring.** The Designated Biologist shall be on-site daily when Covered Activities adjacent to (within 10 feet of the bank) Simmons Creek and the Napa River occur. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after dewatering and vegetation removal adjacent to the banks are completed. The Designated Biologist shall conduct compliance inspections to:
- (1) minimize incidental take of the Covered Species;
  - (2) prevent unlawful take of species;
  - (3) check for compliance with all measures of this ITP;
  - (4) check all exclusion zones; and
  - (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

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

- 7.4. Reporting of Habitat Impacts.** Permittee shall monitor, calculate, and record in an electronic ledger the total amount of permanent and temporary impacts to Covered Species habitat.

**7.5. Notification of Take or Injury.** Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (707) 428-2002 and emailing [James.Hansen@wildlife.ca.gov](mailto:James.Hansen@wildlife.ca.gov). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

If Covered Species suffer mortality, the Permittee shall preserve individuals by freezing or placing in a sealed container with 10 percent formalin solution. Information on time and exact location of any incidental take, method of take, length of time from death to preservation, water temperature, and any other relevant information will be recorded in writing. Permittee shall contact the CDFW regional representative for instructions on transmitting preserved individuals.

**7.6. Monthly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.2, 7.3, 7.4, and 7.5 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. At the time of this ITP's approval, the CDFW Regional Representative is James Hansen ([James.Hansen@wildlife.ca.gov](mailto:James.Hansen@wildlife.ca.gov)) and Headquarters CESA Program email is [CESA@wildlife.ca.gov](mailto:CESA@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

**7.7. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than December 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.6; (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

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the number of Covered Species habitat 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.

- 7.8. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.9. Final Mitigation Report.** No later than 60 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 8. Take Minimization Measures:** The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. Permittee shall implement and adhere to the following conditions to minimize take of Covered Species:
- 8.1. Work Period Restricted to Dry Season.** Work within aquatic and riparian habitat in the Project Area shall be limited to the period from June 15 to October 31 (Dry Season).
- 8.2. Work Period in Dry Weather Only.** Project work shall be restricted to dry weather, as allowed during the work period specified in Condition of Approval 8.1. Permittee shall monitor the National Weather Service 72-hour forecasted precipitation. All necessary erosion control measures shall be implemented prior to the onset of precipitation. Construction activities shall cease when the National Weather Service 24-hour weather forecast indicates a 30 percent chance or higher of 0.25-inch or more of precipitation, unless otherwise approved in writing by CDFW. (For a weekly forecast see <https://www.weather.gov/> and for a 48-hour percent precipitation forecast <https://graphical.weather.gov/sectors/northcalifornia.php>, click on QPF in Amount of Precipitation row, toggle +/- 12 hours). Construction equipment and materials shall be removed if inundation is likely. After any storm event, the Permittee shall inspect all sites currently under construction and all sites scheduled to begin construction within the next 72 hours for erosion and sediment problems and take corrective

action as needed. Seventy-two-hour weather forecasts from the National Weather Service shall be consulted and work shall not resume until runoff ceases and there is less than a 30 percent forecast for precipitation for the following 24-hour period. Weather forecasts shall be documented upon request by CDFW.

- 8.3. Time of Day Work Restriction.** Permittee shall begin Covered Activities at least 30 minutes after sunrise and terminate all Covered Activities at least 30 minutes before sunset, unless otherwise approved in writing by CDFW. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for determining when Covered Activities shall terminate and resume.
- 8.4. Erosion Control.** At no time shall silt-laden runoff be allowed to enter a river or stream or directed to where it may enter a river, stream, or lake. All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Erosion control measures shall be utilized throughout all phases of operation where sediment runoff from exposed slopes threatens to enter a river or stream. Erosion control measures, such as, silt fences, straw hay bales, gravel or rock lined ditches, water check bars, and broadcasted straw shall be used wherever sediment has the potential to leave the work site and enter the river or stream. The Designated Biologist(s) shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately.
- 8.5. Spoil Pile Stabilization.** Soil stockpiles shall be placed where soil cannot erode or wash into a river or stream. Permittee shall stabilize active and non-active spoil piles with native grass hydro-seed, erosion control fabric, straw, or other biodegradable material by October 15 of each year of the Project. Plastic and other synthetic materials shall not be used. Fiber rolls shall be placed around the perimeter of non-active spoil piles, and slope breaks shall be utilized on the slopes of non-active spoil piles. Active spoil piles shall be covered/stabilized adequately when rainy conditions are evident (see Condition of Approval 8.2) or at any time when spoil material could enter a river or stream. No spoil shall be placed on the river or stream side. Excavated spoil shall be removed to an area where the sediment will not deliver to a river or stream.
- 8.6. 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 (e.g., algae, fungi, parasites, bacteria, etc.), from one project site 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: <https://www.cal-ipc.org/solutions/prevention/> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <https://stopaquaticitchhikers.org/>.

- 8.7. Personnel Restriction.** Permittee shall ensure that all construction activities and personnel, including subcontractors, are restricted to the active construction area and public roads.
- 8.8. Work in Isolation from Flowing Water.** All in-water shall be conducted in isolation from flowing water pursuant to the Dewatering and Covered Species Rescue Plan approved in advance and in writing by CDFW as specified in this ITP (see Condition of Approval 8.10).
- 8.9. Inspections for Covered Species.** Before the start of Covered Activities adjacent to (within 10 feet of the bank) Simmons Creek and the Napa River, the Designated Biologist shall inspect all areas to be dewatered for any Covered Species. If found, Covered Species shall be removed by the Designated Biologist and relocated to a safe location (see Condition of Approval 8.10).
- 8.10. Covered Species Dewatering and Rescue Plan.** The Permittee shall submit a detailed Dewatering and Covered Species Rescue Plan (Plan) to CDFW for review covering all areas that will be dewatered, including Covered Species habitat and any other areas, and shall obtain CDFW's written approval of the Plan prior to the commencement of Covered Activities. Permittee shall implement the CDFW-approved Plan and it shall include, at a minimum, the following measures:
- a) Only a Designated Biologist with experience in Covered Species capture and handling shall participate in the capture, handling, and monitoring of Covered Species.
  - b) Covered Species Relocation activities shall be performed during the morning when temperatures are coolest. Hourly air and water temperatures shall be measured and recorded.
  - c) Before removal and relocation of Covered Species, the Designated Biologist shall identify the most appropriate release location(s). Release locations shall provide suitable habitat for Covered Species and shall be selected to minimize the likelihood of reentering the work area. Suitable habitat is defined as river sections that will remain wet over the summer and where banks are structurally diverse with undercut banks, exposed fine root systems, overhanging woody debris or overhanging vegetation.
  - d) Any temporary dam or other artificial obstruction constructed by Permittee shall only be built from materials that will cause little or no siltation, such as clean gravels.
  - e) Following installation of water diversion structures, and prior to project activities, a Designated Biologist shall perform surveys for Covered Species in the Project Area, collect, and relocate them to the nearest predetermined suitable habitat.

During holding and transportation, Covered Species shall be held in stream water collected from the site.

- f) When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, Permittee shall allow sufficient water at all times to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code section 5937.
- g) Permittee shall minimize the potential for Covered Species to be entrained during de-watering activities. Pump intakes shall be placed away from complex vegetated banks that may contain habitat for the Covered Species. The Permittee shall implement the use of a screen in accordance with the National Marine Fisheries Service 1996 Juvenile Fish Screen Criteria for Pump Intakes. Screen material may be constructed of any rigid woven, perforated, or slotted material that provides water passage while physically excluding fish. Round openings in the screen shall not exceed 0.093-inch diameter, square openings shall not exceed 0.093-inch measured diagonally, and slotted openings shall not exceed 0.069 inches in width. Approach velocity shall not exceed 0.33 feet per second.
- h) Prior to fully dewatering the project area, remaining Covered Species in the work area shall be rescued. Dewatering efforts shall be monitored by the Designated Biologist at all times. The Designated Biologist shall reduce the rate of dewatering if it appears that Covered Species may be stranded.
- i) Once water has been diverted around the work area the site shall be dewatered to provide an adequately dry work area. Any muddy or otherwise contaminated water shall be pumped to a settling tank, dewatering filter bag, upland area, or other CDFW-approved location prior to re-entering the creek.
- j) Permittee shall divert flow in a manner that prevents turbidity, siltation, or pollution and provides flows to downstream reaches. Flows to downstream reaches shall be provided during all times that the natural flow would have supported aquatic life. Said flows shall be sufficient quality and quantity, and of appropriate temperature to support fish and other aquatic life both above and below the diversion.
- k) The Designated Biologist shall check daily for stranded aquatic life as the water level in the dewatering area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas.
- l) Efforts shall be made to reduce collecting and handling stress, minimize the time that Covered Species are held in buckets, and minimize handling stress during processing and release. Covered Species shall not be held in containers with other species. Immediately after collection, Covered Species shall be identified and counted. Capture methods may include dip nets. All nets shall be made of a

soft braded nylon material that is non-abrasive. Mesh sizing shall be matched to species and the life stages likely encountered.

- m) No employee or contractor shall remove any Covered Species, dead or alive, from the site for personal use. All efforts to reduce the time that live Covered Species are out of the water shall be made to reduce the chances of incidental take during the rescue. All Covered Species are to be promptly returned to the water with the exception of mortality.
- n) Covered Species shall be processed first and released as soon as possible. Species name and length data will be recorded on data sheets, as well as time, date, location, gear type, water temperature, and any other pertinent observations of the Covered Species.
- o) Rescue operations may result in Covered Species mortality. If Covered Species suffer mortality, Permittee shall implement the procedures outlined in Condition of Approval 7.5.
- p) After completing the rescue, a brief documentation report shall be prepared. The report shall include information on the personnel conducting the Covered Species rescue, methods used, numbers of Covered Species collected and relocated, length data, and estimate of the survival of Covered Species immediately after release. Photographs of the site and rescue operations shall be included. Any take of non-Covered Species shall be documented. The report shall be provided by the Permittee to CDFW in the next Monthly Compliance Report required by Condition of Approval 7.6.
- q) After the Covered Species rescue effort is completed, if additional Covered Species are observed, Project activities shall cease until those individuals have been relocated. The Designated Biologist shall remain at the site during dewatering to rescue additional Covered Species as necessary.
- r) Reintroduction of stream flows shall be gradual to the isolated work area, so as to prevent stranding, channel instability, or excessive scour. The Designated Biologist shall monitor upstream and downstream reaches to ensure no Covered Species are stranded or in distress during reintroduction of flows. If conditions causing or contributing to stress and/or injury are observed, the Permittee shall take immediate remedial actions directed at lessening sources of stress. This may include a more gradual reintroduction of flows, to avoid abrupt water surface elevation changes both downstream and upstream of the Project Area.
- s) Permittee shall restore normal flows to the effected stream immediately upon completion of work at that location.

**8.11. Covered Species Injury.** If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved

wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.5. Notification shall include the name of the facility where the animal was taken.

**9. Habitat Creation, Restoration, Enhancement, and Long-term Management:** CDFW has determined that habitat creation, restoration, enhancement, and long-term 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 create, restore, enhance, and manage 642 linear feet of Covered Species habitat. Specifically, and pursuant to Conditions of Approval 9.1, 9.2, and 9.3 below, Permittee shall:

- Create 120 linear feet of Covered Species Habitat by realigning a 120-foot-long section of Simmons Creek including planting this area with shading and overhanging vegetation,
- Restore 122 linear feet of temporarily impacted Covered Species habitat along Simmons Creek with shading and overhanging vegetation,
- Enhance 242 linear feet of Covered Species habitat by installing Covered Species habitat structures along 242 linear feet of Simmons Creek, overlapping with the above 120 feet and 122 feet,
- Enhance and restore 400 linear feet of Covered Species habitat by installing Covered Species habitat structures along the north bank of the Napa River and revegetating this area with shading and overhanging vegetation, and
- Conduct long-term management of the created, restored, and enhanced Covered Species habitat for a minimum of 10 years.

Creation, restoration, and enhancement of Covered Species habitat must be completed before starting Covered Activities or no later than December 31 of the year project construction is completed even if a Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. Permittee shall conduct long-term management of the created, restored, and enhanced habitat for a minimum of 10 years after habitat creation, restoration, and enhancement is completed.



**9.1. Cost Estimates.** For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete habitat creation, restoration, enhancement, and long-term management of 642 linear feet of Covered Species habitat as described in Conditions of Approval 9.2 and 9.3 as follows:

**9.1.1.** Habitat creation, restoration, and enhancement costs for a 242-foot-long Covered Species Habitat Structure along Simmons Creek, estimated at **\$33,222.00**.

**9.1.2.** Habitat restoration and enhancement costs for a 400-foot-long Covered Species Habitat Structure along the north bank of the Napa River, estimated at **\$54,912.00**.

**9.1.3.** Long-term management funding estimated at **\$89,250.00**.

**9.1.4.** All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to habitat creation, restoration, enhancement, and long-term monitoring and management. 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, estimated at **\$40,000.00**.

**9.2. Habitat Creation, Restoration, Enhancement, and Long-Term Management Plan.**

The Permittee shall prepare a Habitat Creation, Restoration, Enhancement, and Long-Term Management Plan (Plan) for CDFW review within 60 days of the date of this ITP. Permittee shall obtain written approval of the Plan from CDFW and shall implement the Plan in the same calendar year as the completion of project construction. The Plan shall describe the creation of 120 feet of Covered Species habitat within the realigned section of Simmons Creek, restoration of 122 linear feet of Covered Species habitat within the temporarily disturbed channel along both banks of Simmons Creek, enhancement of 242 linear feet of Covered Species by installing Covered Species Habitat Structures along 242 linear feet of Simmons Creek, and enhancement and restoration of 400 linear feet of Covered Species habitat including installing Covered Species Habitat Structures along 400 linear feet within the temporarily disturbed channel along the north bank of the Napa River. The Plan shall include detailed specifications for creating Covered Species habitat within the realigned section of Simmons Creek, Covered Species Habitat Structures, and restoring all temporarily impacted habitat. The Plan shall include success criteria and a minimum of 10 years of annual monitoring and management of the created, enhanced, and restored habitat and annual Covered Species presence/absence surveys, and a description of how all future monitoring and management of these areas shall be conducted, including the below information.

**9.2.1.** Construction level designs for the Covered Species Habitat Structures along 242 feet of the realigned Simmons Creek and 400 feet of the north bank of the Napa River. The structures shall be composed of cantilevered (undercut) coir-

logs supported by dense willow (*Salix* sp.) and alder (*Alnus* sp.) pole plantings (or other appropriate native riparian species) to establish undercut bank conditions. At a minimum the success criteria shall be as follows:

- 9.2.1.1.** Covered Species Habitat Structures shall remain functioning as designed with average water depth along Covered Species Habitat Structures and stream bank undercut depths of at least 75 percent of the capacity of the as-built designs.
- 9.2.1.2.** If success criteria are not achieved, the Permittee shall be responsible for management actions to restore capacity and function.
- 9.2.2.** Detailed riparian restoration planting plan for the 642 feet of created (realigned) and temporarily impacted Covered Species habitat within Simmons Creek and the north bank of the Napa River including a map to scale, installation specifications for native riparian plantings providing shading and overhanging vegetation including species, quantity, size, and spacing, seed mixes and application methods, invasive species removal with a list of actions and schedule of timing for proposed actions (chemical application, hand removal, grazing, etc.), and an aerial image based map showing species planting locations. At a minimum the success criteria shall be as follows:
  - 9.2.2.1.** All tree plantings shall have 85 percent survivorship after ten years with no supplemental watering during the final two years of monitoring. This success criteria also applies to riparian tree plantings described in Condition of Approval 9.2.1.
  - 9.2.2.2.** A minimum ground cover of 75 percent after ten years for all herbaceous species. This success criteria also applies to any riparian herbaceous plantings described in Condition of Approval in 9.2.1.
  - 9.2.2.3.** A 10 percent or less ground cover of Cal-IPC Exotic/Invasive plant species rated as “High” by the end of ten years (see: <http://www.cal-ipc.org/plants/inventory/>).
  - 9.2.2.4.** If success criteria are not achieved, the Permittee shall be responsible for additional replacement planting, watering, weeding, invasive/exotic species eradication, etc. Replacement plants shall be monitored with the same survival and cover requirements for an additional 10 years after replanting, unless otherwise approved in writing by CDFW. If success criteria are not met, additional mitigation requirements may be required by CDFW and an Amendment to this ITP may be required.
- 9.2.3.** A protocol and schedule for conducting annual Covered Species presence/absence surveys.

**9.2.4.** Monitoring and management of created, restored, and enhanced habitat for a minimum of 10 years to ensure the long-term viability of the habitat mitigation, which includes a description of how monitoring and management of such habitat will be conducted for the benefit of the Covered Species. Long-term monitoring and management shall be conducted in year zero for baseline (once creation, restoration, and enhancement is completed) and annually for a minimum of 10 years. The Plan shall include preparation of an annual monitoring report from years zero through 10 including the following three sections as further outlined below: *Vegetation Monitoring*, *Covered Species Habitat Structure Monitoring*, and *Species Monitoring*. All reports shall be submitted by December 31 of the year in which they are required.

**9.2.4.1.** *Covered Species Habitat Structures Monitoring.* Monitoring reports shall include: (1) average water depth along Covered Species Habitat Structures, (2) stream bank undercut depths, (3) density of viable pole plantings, (4) dated photographs showing the status of Covered Species Habitat Structures from several vantage points that are consistently used annually to show annual progress, (5) annual maintenance of the Covered Species Habitat Structures, (6) vegetation viability with success criteria, (7) as-built construction plans, (8) efficacy of Covered Species Habitat Structures with success criteria, and (9) recommendations for on-going adaptive management of the Covered Species Habitat Structures.

**9.2.4.2.** *Vegetation Monitoring.* Monitoring reports shall include: (1) a map of habitat creation and restoration areas specifying the species and locations of plantings, (2) a description of vegetation conditions and information necessary to show compliance with Condition of Approval 9.2.2 including but not limited if success criteria are being met and an updated aerial image based map identifying the species and location of any replacement plantings, (3) dated photographs starting from year zero (i.e., baseline) showing the status of habitat creation and restoration areas from several vantage points that are consistently used annually to show annual progress, and (4) a schedule for any future remediation actions.

**9.2.4.3.** *Species Monitoring.* Monitoring reports shall include the results of annual presence/absence surveys for the Covered Species conducted pursuant to Condition of Approval 9.2.3, and copies of CNDDDB reports documenting Covered Species occurrences.

**9.3.** Long-Term Management Funding. Permittee shall ensure that habitat creation, restoration, and enhancement areas are managed, maintained, and monitored for a minimum of ten years as described in this ITP. Permittee shall provide a minimum of ten years of monitoring and management funding for activities outlined in the final CDFW-approved Habitat Creation, Restoration, Enhancement, and Long-Term Management Plan consistent with Condition of Approval 9.2.

## 10. Performance Security

The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

- 10.1. Security Amount. The Security shall be in the amount of **\$217,384.00** or in the amount identified in 9.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, sufficient for CDFW or its contractors to complete Covered Species habitat creation, enhancement, restoration, and long-term management.
- 10.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 2) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal. Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 3) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.
- 10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
  - Timely submission of all required reports;
  - Achievement of success criteria pursuant to the terms of this ITP;
  - An on-site inspection by CDFW; and
  - Written approval from CDFW.

Even if Security is provided, the Permittee must complete the required habitat creation, restoration, and enhancement of Covered Species habitat no later than December 31 of the year project construction is completed. Permittee shall conduct long-term

management of the created, restored, and enhanced habitat for a minimum of 10 years after habitat creation, restoration, and enhancement is completed. CDFW may require the Permittee to provide additional habitat compensation and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

### **IX. Amendment:**

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

### **X. Stop-Work Order:**

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

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

### **XI. Compliance with Other Laws:**

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

### **XII. Notices:**

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

Incidental Take Permit  
No. 2081-2022-088-03  
CITY OF CALISTOGA

CALISTOGA RIVERSIDE PONDS RELOCATION PROJECT

reference the Project name, Permittee, and ITP Number (2081-2022-088-03) 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](mailto: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](mailto: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:

James Hansen, Environmental Scientist  
California Department of Fish and Wildlife – Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
Telephone (707) 576-2869  
[James.Hansen@wildlife.ca.gov](mailto:James.Hansen@wildlife.ca.gov)

### **XIII. Compliance with CEQA:**

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, City of Calistoga. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Mitigated Negative Declaration and Initial Study, (SCH No.: 2019089100) dated November 2019 that the City of Calistoga adopted for Calistoga Riverside Ponds Relocation Project on December 11, 2019. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's Mitigated Negative Declaration for the Project and the environmental effects related to issuance of this

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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, Mitigated Negative Declaration, site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) habitat creation, restoration, enhancement, and long-term management; (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 linear feet of habitat creation, restoration, and enhancement required to provide for adequate compensation. Based on this evaluation, CDFW determined that the creation, restoration, enhancement, and long-term management of 642 linear feet of on-site Covered Species habitat, 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	Map of Project
FIGURE 2	Map of Impacts
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Letter of Credit Form
ATTACHMENT 3	Mitigation Payment Transmittal Form

**ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

ON 6/12/2024

DocuSigned by:  
*Erin Chappell*  
 D77E0A6244EF486...

Erin Chappell, Regional Manager  
Bay Delta Region

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CITY OF CALISTOGA

CALISTOGA RIVERSIDE PONDS RELOCATION PROJECT



## 2 PROJECT DESCRIPTION

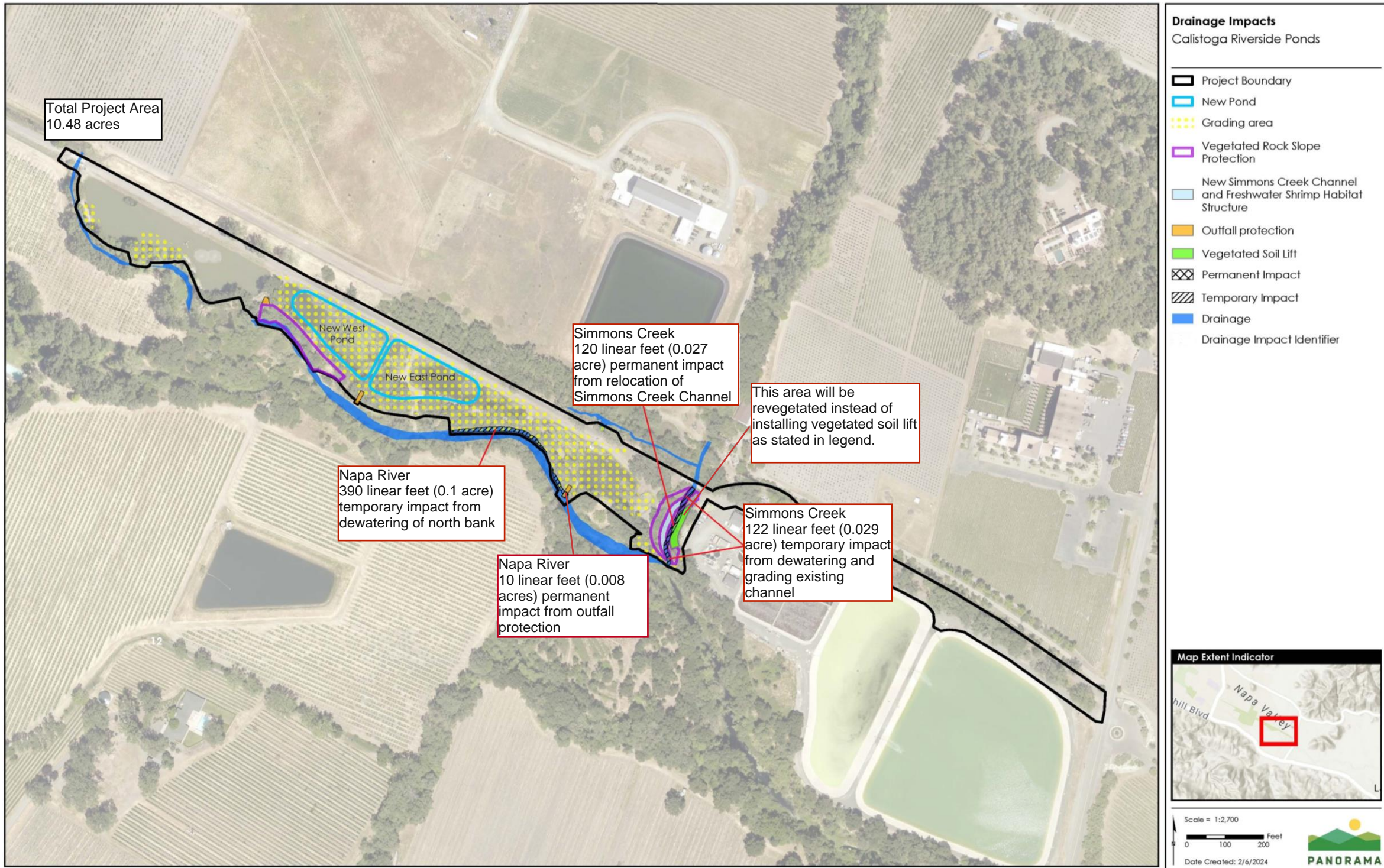
**Figure 1 Regional Location**



Source: (ESA 2020)

### 4 TAKE AND IMPACTS ON LISTED SPECIES

**Figure 5** Impacts to CFS Habitat in Napa River and Simmons Creek



Source: (Bennett Engineering 2023)

**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)  
CALIFORNIA ENDANGERED SPECIES ACT  
INCIDENTAL TAKE PERMIT NO. 2081-2022-088-03**

**PERMITTEE:** City of Calistoga

**PROJECT:** Calistoga Riverside Ponds Relocation Project

**PURPOSE OF THE MMRP**

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

**OBLIGATIONS OF PERMITTEE**

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

**VERIFICATION OF COMPLIANCE, EFFECTIVENESS**

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

**TABLE OF MITIGATION MEASURES**

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<b>BEFORE DISTURBING SOIL OR VEGETATION</b>					
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.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Designated Biologist(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) using the Biologist Resume Form ( <a href="https://nrm.dfg.ca.gov/FileHandler.aspx?DocumentID=202869">https://nrm.dfg.ca.gov/FileHandler.aspx?DocumentID=202869</a> ) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	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.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
4	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.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
5	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.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	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.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
7	Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
8	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.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
9	<p>Habitat Creation, Restoration, Enhancement, and Long-term Management: CDFW has determined that habitat creation, restoration, enhancement, and long-term management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.</p> <p>To meet this requirement, the Permittee shall create, restore, enhance, and manage 642 linear feet of Covered Species habitat. Specifically, and pursuant to Conditions of Approval 9.1, 9.2, and 9.3 below, Permittee shall:</p> <ul style="list-style-type: none"> <li>• Create 120 linear feet of Covered Species Habitat by realigning a 120-foot-long section of Simmons Creek including planting this area with shading and overhanging vegetation,</li> <li>• Restore 122 linear feet of temporarily impacted Covered Species habitat along Simmons Creek with shading and overhanging vegetation,</li> <li>• Enhance 242 linear feet of Covered Species habitat by installing Covered Species habitat structures along 242 linear feet of Simmons Creek, overlapping with the above 120 feet and 122 feet,</li> <li>• Enhance and restore 400 linear feet of Covered Species habitat by installing Covered Species habitat structures along the north bank of the Napa River and revegetating this area with shading and overhanging vegetation, and</li> <li>• Conduct long-term management of the created, restored, and enhanced Covered Species habitat for a minimum of 10 years.</li> </ul> <p>Creation, restoration, and enhancement of Covered Species habitat must be completed before starting Covered Activities or no later than December 31 of the year project construction is completed even if a Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. Permittee shall conduct long-term management of the created, restored, and enhanced habitat for a minimum of 10 years after habitat creation, restoration, and enhancement is completed.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or no later than December 31 of the year project construction is completed if Security is provided) and habitat management shall occur a minimum of 10 years after habitat creation is completed)	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
10	<p>Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete habitat creation, restoration, enhancement, and long-term management of 642 linear feet of Covered Species habitat as described in Conditions of Approval 9.2 and 9.3 as follows:</p> <p>Habitat creation, restoration, and enhancement costs for a 242-foot-long Covered Species Habitat Structure along Simmons Creek, estimated at \$33,222.00.</p> <p>Habitat restoration and enhancement costs for a 400-foot-long Covered Species Habitat Structure along the north bank of the Napa River, estimated at \$54,912.00.</p> <p>Long-term management funding estimated at \$89,250.00.</p> <p>All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to habitat creation, restoration, enhancement, and long-term monitoring and management. 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, estimated at \$40,000.00.</p>	ITP Condition # 9.1	Before commencing ground- or vegetation-disturbing activities (or no later than December 31 of the year project construction is completed if Security is provided) and habitat management shall occur for a minimum of 10 years after habitat creation is completed)	Permittee	

<p>11</p>	<p>Habitat Creation, Restoration, Enhancement, and Long-Term Management Plan. The Permittee shall prepare a Habitat Creation, Restoration, Enhancement, and Long-Term Management Plan (Plan) for CDFW review within 60 days of the date of this ITP. Permittee shall obtain written approval of the Plan from CDFW and shall implement the Plan in the same calendar year as the completion of project construction. The Plan shall describe the creation of 120 feet of Covered Species habitat within the realigned section of Simmons Creek, restoration of 122 linear feet of Covered Species habitat within the temporarily disturbed channel along both banks of Simmons Creek, enhancement of 242 linear feet of Covered Species by installing Covered Species Habitat Structures along 242 linear feet of Simmons Creek, and enhancement and restoration of 400 linear feet of Covered Species habitat including installing Covered Species Habitat Structures along 400 linear feet within the temporarily disturbed channel along the north bank of the Napa River. The Plan shall include detailed specifications for creating Covered Species habitat within the realigned section of Simmons Creek, Covered Species Habitat Structures, and restoring all temporarily impacted habitat. The Plan shall include success criteria and a minimum of 10 years of annual monitoring and management of the created, enhanced, and restored habitat and annual Covered Species presence/absence surveys, and a description of how all future monitoring and management of these areas shall be conducted, including the below information.</p> <p>Construction level designs for the Covered Species Habitat Structures along 242 feet of the realigned Simmons Creek and 400 feet of the north bank of the Napa River. The structures shall be composed of cantilevered (undercut) coir-logs supported by dense willow (<i>Salix sp.</i>) and alder (<i>Alnus sp.</i>) pole plantings (or other appropriate native riparian species) to establish undercut bank conditions. At a minimum the success criteria shall be as follows:</p> <p>Covered Species Habitat Structures shall remain functioning as designed with average water depth along Covered Species Habitat Structures and stream bank undercut depths of at least 75 percent of the capacity of the as-built designs.</p> <p>If success criteria are not achieved, the Permittee shall be responsible for management actions to restore capacity and function.</p> <p>Detailed riparian restoration planting plan for the 642 feet of created (realigned) and temporarily impacted Covered Species habitat within Simmons Creek and the north bank of the Napa River including a map to scale, installation specifications for native riparian plantings providing shading and overhanging vegetation including species, quantity, size, and spacing, seed mixes and application methods, invasive species removal with a list of actions and schedule of timing for proposed actions (chemical application, hand removal, grazing, etc.), and an aerial image based map showing species planting locations. At a minimum the success criteria shall be as follows:</p> <p>All tree plantings shall have 85 percent survivorship after ten years with no supplemental watering during the final two years of monitoring. This success criteria also applies to riparian tree plantings described in Condition of Approval 9.2.1.</p>	<p>ITP Condition # 9.2</p>	<p>Before commencing ground- or vegetation-disturbing activities (or no later than December 31 of the year project construction is completed if Security is provided) and habitat management shall occur for a minimum of 10 years after habitat creation is completed.</p>	<p>Permittee</p>	
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<p>A minimum ground cover of 75 percent after ten years for all herbaceous species. This success criteria also applies to any riparian herbaceous plantings described in Condition of Approval in 9.2.1.</p> <p>A 10 percent or less ground cover of Cal-IPC Exotic/Invasive plant species rated as "High" by the end of ten years (see: <a href="http://www.cal-ipc.org/plants/inventory/">http://www.cal-ipc.org/plants/inventory/</a>).</p> <p>If success criteria are not achieved, the Permittee shall be responsible for additional replacement planting, watering, weeding, invasive/exotic species eradication, etc. Replacement plants shall be monitored with the same survival and cover requirements for an additional 10 years after replanting, unless otherwise approved in writing by CDFW. If success criteria are not met, additional mitigation requirements may be required by CDFW and an Amendment to this ITP may be required.</p> <p>A protocol and schedule for conducting annual Covered Species presence/absence surveys.</p> <p>Monitoring and management of created, restored, and enhanced habitat for a minimum of 10 years to ensure the long-term viability of the habitat mitigation, which includes a description of how monitoring and management of such habitat will be conducted for the benefit of the Covered Species. Long-term monitoring and management shall be conducted in year zero for baseline (once creation, restoration, and enhancement is completed) and annually for a minimum of 10 years. The Plan shall include preparation of an annual monitoring report from years zero through 10 including the following three sections as further outlined below: Vegetation Monitoring, Covered Species Habitat Structure Monitoring, and Species Monitoring. All reports shall be submitted by December 31 of the year in which they are required.</p> <p>Covered Species Habitat Structures Monitoring. Monitoring reports shall include: (1) average water depth along Covered Species Habitat Structures, (2) stream bank undercut depths, (3) density of viable pole plantings, (4) dated photographs showing the status of Covered Species Habitat Structures from several vantage points that are consistently used annually to show annual progress, (5) annual maintenance of the Covered Species Habitat Structures, (6) vegetation viability with success criteria, (7) as-built construction plans, (8) efficacy of Covered Species Habitat Structures with success criteria, and (9) recommendations for on-going adaptive management of the Covered Species Habitat Structures.</p> <p>Vegetation Monitoring. Monitoring reports shall include: (1) a map of habitat creation and restoration areas specifying the species and locations of plantings, (2) a description of vegetation conditions and information necessary to show compliance with Condition of Approval 9.2.2 including but not limited if success criteria are being met and an updated aerial image based map identifying the species and location of any replacement plantings, (3) dated photographs starting from year zero (i.e., baseline) showing the status of habitat creation and restoration areas from several vantage points that are consistently used annually to show annual progress, and (4) a schedule for any future remediation actions.</p> <p>Species Monitoring. Monitoring reports shall include the results of annual presence/absence surveys for the Covered Species conducted pursuant to Condition of Approval 9.2.3, and copies of CNDDDB reports documenting Covered Species occurrences.</p>				
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	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
12	Long-Term Management Funding. Permittee shall ensure that habitat creation, restoration, and enhancement areas are managed, maintained, and monitored for a minimum of ten years as described in this ITP. Permittee shall provide a minimum of ten years of monitoring and management funding for activities outlined in the final CDFW-approved Habitat Creation, Restoration, Enhancement, and Long-Term Management Plan consistent with Condition of Approval 9.2.	ITP Condition # 9.3	A Security shall be provided before commencing ground- or vegetation-disturbing activities.. Habitat management shall occur for a minimum of 10 years after habitat creation is completed.	Permittee	

<p>13</p>	<p>The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p><u>Security Amount.</u> The Security shall be in the amount of <b>\$217,384</b> or in the amount identified in 9.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, sufficient for CDFW or its contractors to complete Covered Species habitat creation, enhancement, restoration, and long-term management.</p> <p><u>Security Form.</u> The Security shall be in the form of an irrevocable letter of credit (see Attachment 2) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p><u>Security Timeline.</u> The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.</p> <p><u>Security Holder.</u> The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p><u>Security Transmittal.</u> Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 3) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.</p> <p><u>Security Drawing.</u> The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.</p> <p><u>Security Release.</u> The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <ul style="list-style-type: none"> <li>• Timely submission of all required reports;</li> <li>• Achievement of success criteria pursuant to the terms of this ITP;</li> <li>• An on-site inspection by CDFW; and</li> <li>• Written approval from CDFW.</li> </ul> <p>Even if Security is provided, the Permittee must complete the required habitat creation, restoration, and enhancement of Covered Species habitat no later than December 31 of the year project construction is completed. Permittee shall conduct long-term management of the created, restored, and enhanced habitat for a minimum of 10 years after habitat creation, restoration, and enhancement is completed. CDFW may require the Permittee to provide additional habitat compensation and/or additional funding to ensure the impacts of the taking</p>	<p>ITP Condition # 10</p>	<p>Before commencing ground- or vegetation- disturbing activities</p>	<p>Permittee</p>	
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	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.				
<b>DURING CONSTRUCTION</b>					
14	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 his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.	ITP Condition # 6.3	Entire Project	CDFW	
15	Construction Monitoring Documentation. The Designated Biologist(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
16	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.	ITP Condition # 6.8	Entire Project	Permittee	
17	Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.11	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
18	Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.	ITP Condition # 6.12	Entire Project	Permittee	
19	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.	ITP Condition # 6.13	Entire Project	Permittee	
20	CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition # 6.14	Entire Project	Permittee	
21	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.	ITP Condition # 7.2	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
22	<p>Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities adjacent to (within 10 feet of the bank) Simmons Creek and the Napa River occur. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after dewatering and vegetation removal adjacent to the banks are completed. The Designated Biologist shall conduct compliance inspections to:</p> <p>(1) minimize incidental take of the Covered Species;</p> <p>(2) prevent unlawful take of species;</p> <p>(3) check for compliance with all measures of this ITP;</p> <p>(4) check all exclusion zones; and</p> <p>(5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.</p> <p>The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.</p>	ITP Condition # 7.3	Entire Project	Permittee	
23	<p>Reporting of Habitat Impacts. Permittee shall monitor, calculate, and record in an electronic ledger the total amount of permanent and temporary impacts to Covered Species habitat.</p>	ITP Condition # 7.4	Entire Project	Permittee	
24	<p>Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (707) 428-2002 and emailing James.Hansen@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.</p> <p>If Covered Species suffer mortality, the Permittee shall preserve individuals by freezing or placing in a sealed container with 10 percent formalin solution. Information on time and exact location of any incidental take, method of take, length of time from death to preservation, water temperature, and any other relevant information will be recorded in writing. Permittee shall contact the CDFW regional representative for instructions on transmitting preserved individuals.</p>	ITP Condition # 7.5	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
25	Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.2, 7.3, 7.4, and 7.5 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. At the time of this ITP's approval, the CDFW Regional Representative is James Hansen (James.Hansen@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.6	Entire Project	Permittee	
26	Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than December 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.6; (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 Covered Species habitat acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 7.7	Entire Project	Permittee	
27	CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.8	Entire Project	Permittee	
28	Work Period Restricted to Dry Season. Work within aquatic and riparian habitat in the Project Area shall be limited to the period from June 15 to October 31 (Dry Season).	ITP Condition # 8.1	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
29	Work Period in Dry Weather Only. Project work shall be restricted to dry weather, as allowed during the work period specified in Condition of Approval 8.1. Permittee shall monitor the National Weather Service 72-hour forecasted precipitation. All necessary erosion control measures shall be implemented prior to the onset of precipitation. Construction activities shall cease when the National Weather Service 24-hour weather forecast indicates a 30 percent chance or higher of 0.25-inch or more of precipitation, unless otherwise approved in writing by CDFW. (For a weekly forecast see <a href="https://www.weather.gov/">https://www.weather.gov/</a> and for a 48-hour percent precipitation forecast <a href="https://graphical.weather.gov/sectors/northcalifornia.php">https://graphical.weather.gov/sectors/northcalifornia.php</a> , click on QPF in Amount of Precipitation row, toggle +/- 12 hours). Construction equipment and materials shall be removed if inundation is likely. After any storm event, the Permittee shall inspect all sites currently under construction and all sites scheduled to begin construction within the next 72 hours for erosion and sediment problems and take corrective action as needed. Seventy-two-hour weather forecasts from the National Weather Service shall be consulted and work shall not resume until runoff ceases and there is less than a 30 percent forecast for precipitation for the following 24-hour period. Weather forecasts shall be documented upon request by CDFW.	ITP Condition # 8.2	Entire Project	Permittee	
30	Time of Day Work Restriction. Permittee shall begin Covered Activities at least 30 minutes after sunrise and terminate all Covered Activities at least 30 minutes before sunset, unless otherwise approved in writing by CDFW. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for determining when Covered Activities shall terminate and resume.	ITP Condition # 8.3	Entire Project	Permittee	
31	Erosion Control. At no time shall silt-laden runoff be allowed to enter a river or stream or directed to where it may enter a river, stream, or lake. All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Erosion control measures shall be utilized throughout all phases of operation where sediment runoff from exposed slopes threatens to enter a river or stream. Erosion control measures, such as, silt fences, straw hay bales, gravel or rock lined ditches, water check bars, and broadcasted straw shall be used wherever sediment has the potential to leave the work site and enter the river or stream. The Designated Biologist(s) shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately.	ITP Condition # 8.4	Entire Project	Permittee	
32	Spoil Pile Stabilization. Soil stockpiles shall be placed where soil cannot erode or wash into a river or stream. Permittee shall stabilize active and non-active spoil piles with native grass hydro-seed, erosion control fabric, straw, or other biodegradable material by October 15 of each year of the Project. Plastic and other synthetic materials shall not be used. Fiber rolls shall be placed around the perimeter of non-active spoil piles, and slope breaks shall be utilized on the slopes of non-active spoil piles. Active spoil piles shall be covered/stabilized adequately when rainy conditions are evident (see Condition of Approval 8.2) or at any time when spoil material could enter a river or stream. No spoil shall be placed on the river or stream side. Excavated spoil shall be removed to an area where the sediment will not deliver to a river or stream.	ITP Condition # 8.5	Entire Project	Permittee	



	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
33	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 (e.g., algae, fungi, parasites, bacteria, etc.), from one project site 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: <a href="https://www.cal-ipc.org/solutions/prevention/">https://www.cal-ipc.org/solutions/prevention/</a> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <a href="https://stopaquatic hitchhikers.org/">https://stopaquatic hitchhikers.org/</a> .	ITP Condition # 8.6	Entire Project	Permittee	
34	Personnel Restriction. Permittee shall ensure that all construction activities and personnel, including subcontractors, are restricted to the active construction area and public roads.	ITP Condition # 8.7	Entire Project	Permittee	
35	Work in Isolation from Flowing Water. All in-water shall be conducted in isolation from flowing water pursuant to the Dewatering and Covered Species Rescue Plan approved in advance and in writing by CDFW as specified in this ITP (see Condition of Approval 8.10).	ITP Condition # 8.8	Entire Project	Permittee	
36	Inspections for Covered Species. Before the start of Covered Activities adjacent to (within 10 feet of the bank) Simmons Creek and the Napa River, the Designated Biologist shall inspect all areas to be dewatered for any Covered Species. If found, Covered Species shall be removed by the Designated Biologist and relocated to a safe location (see Condition of Approval 8.10).	ITP Condition # 8.9	Entire Project	Permittee	

<p>37</p>	<p>Covered Species Dewatering and Rescue Plan. The Permittee shall submit a detailed Dewatering and Covered Species Rescue Plan (Plan) to CDFW for review covering all areas that will be dewatered, including Covered Species habitat and any other areas, and shall obtain CDFW's written approval of the Plan prior to the commencement of Covered Activities. Permittee shall implement the CDFW-approved Plan and it shall include, at a minimum, the following measures:</p> <p>a) Only a Designated Biologist with experience in Covered Species capture and handling shall participate in the capture, handling, and monitoring of Covered Species.</p> <p>b) Covered Species Relocation activities shall be performed during the morning when temperatures are coolest. Hourly air and water temperatures shall be measured and recorded.</p> <p>c) Before removal and relocation of Covered Species, the Designated Biologist shall identify the most appropriate release location(s). Release locations shall provide suitable habitat for Covered Species and shall be selected to minimize the likelihood of reentering the work area. Suitable habitat is defined as river sections that will remain wet over the summer and where banks are structurally diverse with undercut banks, exposed fine root systems, overhanging woody debris or overhanging vegetation.</p> <p>d) Any temporary dam or other artificial obstruction constructed by Permittee shall only be built from materials that will cause little or no siltation, such as clean gravels.</p> <p>e) Following installation of water diversion structures, and prior to project activities, a Designated Biologist shall perform surveys for Covered Species in the Project Area, collect, and relocate them to the nearest predetermined suitable habitat. During holding and transportation, Covered Species shall be held in stream water collected from the site.</p> <p>f) When any dam or other artificial obstruction is being constructed, maintained, or placed in operation, Permittee shall allow sufficient water at all times to pass downstream to maintain aquatic life below the dam pursuant to Fish and Game Code section 5937.</p> <p>g) Permittee shall minimize the potential for Covered Species to be entrained during dewatering activities. Pump intakes shall be placed away from complex vegetated banks that may contain habitat for the Covered Species. The Permittee shall implement the use of a screen in accordance with the National Marine Fisheries Service 1996 Juvenile Fish Screen Criteria for Pump Intakes. Screen material may be constructed of any rigid woven, perforated, or slotted material that provides water passage while physically excluding fish. Round openings in the screen shall not exceed 0.093-inch diameter, square openings shall not exceed 0.093-inch measured diagonally, and slotted openings shall not exceed 0.069 inches in width. Approach velocity shall not exceed 0.33 feet per second.</p> <p>h) Prior to fully dewatering the project area, remaining Covered Species in the work area shall be rescued. Dewatering efforts shall be monitored by the Designated Biologist at all times. The Designated Biologist shall reduce the rate of dewatering if it appears that Covered Species may be stranded.</p>	<p>ITP Condition # 8.10</p>	<p>Entire Project</p>	<p>Permittee</p>	
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<p>i) Once water has been diverted around the work area the site shall be dewatered to provide an adequately dry work area. Any muddy or otherwise contaminated water shall be pumped to a settling tank, dewatering filter bag, upland area, or other CDFW-approved location prior to re-entering the creek.</p> <p>j) Permittee shall divert flow in a manner that prevents turbidity, siltation, or pollution and provides flows to downstream reaches. Flows to downstream reaches shall be provided during all times that the natural flow would have supported aquatic life. Said flows shall be sufficient quality and quantity, and of appropriate temperature to support fish and other aquatic life both above and below the diversion.</p> <p>k) The Designated Biologist shall check daily for stranded aquatic life as the water level in the dewatering area drops. All reasonable efforts shall be made to capture and move all stranded aquatic life observed in the dewatered areas.</p> <p>l) Efforts shall be made to reduce collecting and handling stress, minimize the time that Covered Species are held in buckets, and minimize handling stress during processing and release. Covered Species shall not be held in containers with other species. Immediately after collection, Covered Species shall be identified and counted. Capture methods may include dip nets. All nets shall be made of a soft braded nylon material that is non-abrasive. Mesh sizing shall be matched to species and the life stages likely encountered.</p> <p>m) No employee or contractor shall remove any Covered Species, dead or alive, from the site for personal use. All efforts to reduce the time that live Covered Species are out of the water shall be made to reduce the chances of incidental take during the rescue. All Covered Species are to be promptly returned to the water with the exception of mortality.</p> <p>n) Covered Species shall be processed first and released as soon as possible. Species name and length data will be recorded on data sheets, as well as time, date, location, gear type, water temperature, and any other pertinent observations of the Covered Species.</p> <p>o) Rescue operations may result in Covered Species mortality. If Covered Species suffer mortality, Permittee shall implement the procedures outlined in Condition of Approval 7.5.</p> <p>p) After completing the rescue, a brief documentation report shall be prepared. The report shall include information on the personnel conducting the Covered Species rescue, methods used, numbers of Covered Species collected and relocated, length data, and estimate of the survival of Covered Species immediately after release. Photographs of the site and rescue operations shall be included. Any take of non-Covered Species shall be documented. The report shall be provided by the Permittee to CDFW in the next Monthly Compliance Report required by Condition of Approval 7.6.</p> <p>q) After the Covered Species rescue effort is completed, if additional Covered Species are observed, Project activities shall cease until those individuals have been relocated. The Designated Biologist shall remain at the site during dewatering to rescue additional Covered Species as necessary.</p>				
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	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>r) Reintroduction of stream flows shall be gradual to the isolated work area, so as to prevent stranding, channel instability, or excessive scour. The Designated Biologist shall monitor upstream and downstream reaches to ensure no Covered Species are stranded or in distress during reintroduction of flows. If conditions causing or contributing to stress and/or injury are observed, the Permittee shall take immediate remedial actions directed at lessening sources of stress. This may include a more gradual reintroduction of flows, to avoid abrupt water surface elevation changes both downstream and upstream of the Project Area.</p> <p>s) Permittee shall restore normal flows to the effected stream immediately upon completion of work at that location.</p>				
38	<p>Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 7.5. Notification shall include the name of the facility where the animal was taken.</p>	ITP Condition # 8.11	Entire Project	Permittee	
<b>POST-CONSTRUCTION</b>					
39	<p>Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.</p>	ITP Condition # 6.15	Post-construction	Permittee	
40	<p>Final Mitigation Report. No later than 60 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.</p>	ITP Condition # 7.9	Post-construction and after completion of mitigation	Permittee	

**[Financial institution letterhead]**

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

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Issue Date: **[date]**

Beneficiary:

California Department of Fish and Wildlife  
Habitat Conservation Planning Branch  
960 Riverside Parkway, Suite 90  
West Sacramento, CA 95605  
Attn: HCPB Mitigation Funds

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

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

Dear Sirs:

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

6. The Certificate shall be completed and signed by an Authorized Representative of CDFW as defined in paragraph 12 below. Presentation by CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.
7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled or the Principal Sum will be reduced upon receipt by us of Certificate of Cancellation/Reduction, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of CDFW, as defined in paragraph 12 below.
12. An Authorized Representative shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Manager of CDFW's Habitat Conservation Planning Branch.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at [***name and address of financial institution***], specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 960 Riverside Parkway, Suite 90, West Sacramento, CA 95605, Attn: HCPB Mitigation Funds; and (ii) for the Applicant: [***name and address of applicant***].

15. This Credit may not be transferred.

16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the Uniform Commercial Code, Article 5 of the State of California.

17. This Credit shall, if not canceled, expire on [**expiration date**], or any extended expiration date.

18. We hereby agree with CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.

19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

**[Name of financial institution]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone: \_\_\_\_\_

ATTACHMENT A

CERTIFICATE FOR DRAWING

**[CDFW Letterhead]**

**[Date]**

**[Name and address of financial institution]**

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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



ATTACHMENT B

CERTIFICATE FOR CANCELLATION/REDUCTION

[*CDFW Letterhead*]

[*Date*]

[*Name and address of financial institution*]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

\_\_\_\_\_  
[*Insert one of the following: “Director” or “General Counsel” or “Regional Manager, [Name of Regional Office]” or “Branch Manager, Habitat Conservation Planning Branch”]*]

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

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

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

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

2081 Permit   
  Conservation Bank   
  2835 NCCP   
  1802 Agreement   
  1600 Agreement   
  Other \_\_\_\_\_

\_\_\_\_\_

Project Tracking Number

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

Check information:

Total \$ \_\_\_\_\_                      Check No. \_\_\_\_\_

Account No. \_\_\_\_\_                      Bank Routing No. \_\_\_\_\_

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

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

Please send this form to [asbmitigation@wildlife.ca.gov](mailto:asbmitigation@wildlife.ca.gov)