



**California Department of Fish and Wildlife  
North Central Region  
1701 NIMBUS ROAD  
RANCHO CORDOVA, CA 95670**

California Endangered Species Act  
Amended Incidental Take Permit No. 2081-2018-082-02  
(Amendment No. 2)

**STONEGATE DEVELOPMENT**

**Authority:** This California Endangered Species Act (CESA) and Native Plant Protection Act (NPPA) 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 and 786.9, subdivision (b). 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> The NPPA prohibits the take, possession, propagation, transportation, exportation, importation, or sale of any native plant that is designated by the California Fish and Game Commission as endangered or rare (Fish & G. Code, §§ 1904, 1908; Cal. Code Regs., tit. 14, §§ 670.2, 786.9., subd. (a)(2)). However, CDFW may authorize the take of any such species by permit pursuant to the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) and California Code of Regulations, Title 14, section 786.9, subdivision (b). (See Cal. Code Regs., tit. 14, § 783.4).

<b>Permittee:</b>	<b>Bruce Road Associates, LP.</b>
<b>Principal Officer:</b>	<b>George Schmidbauer, General Manager</b>
<b>Contact Person:</b>	<b>Chris Giampaoli, (530) 891-4757</b>
<b>Mailing Address:</b>	<b>P.O. Box 143 Eureka, CA 95502</b>

**Amended ITP<sup>3</sup> Background:**

On February 20, 2019, the Bruce Road Associates, LP submitted a CESA ITP pursuant to Fish and Game Code 2081, subdivisions (b) and (c), and California Code of Regulations, Titles 14, section 783.0 et seq. The Bruce Road Associates, LP. sought take coverage authorization for CESA listed species associated with project-related impacts from the Stonegate Development Project in Chico, Butte County, California (Project).

<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.

<sup>3</sup>When this incidental take permit and attachments refer to the “ITP”, it means the “Amended ITP” unless the context dictates otherwise.

On August 20, 2019, CDFW issued ITP No. 2081-2018-082-02 to Bruce Road Associates, LP (Permittee) authorizing take of Butte County meadowfoam (*Limnanthes floccosa* ssp. *californica*) associated with and incidental to the Project. The Project is as described in the ITP originally issued by CDFW includes the development of 132 acres along Bruce Road in Chico, CA. In issuing the ITP, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

On November 16, 2022, Bruce Road Associates, LP submitted a request for a "minor amendment" to CESA ITP No. 2018-2019-015-02 (See Cal. Code Regs., § 783.6(c)(4)). This Amendment (Amendment No. 1), issued on June 13, 2023, altered the language of Condition of Approval No. 10 (Performance Security), thereby allowing the Permittee to complete the HM land acquisition process and submit proof of completion of that process to CDFW prior to starting Covered Activities and no later than June 1, 2024. These changes were also reflected in the corresponding section of the Mitigation Monitoring and Reporting Program (MMRP) Table.

On March 15, 2024, Bruce Road Associates, LP submitted a request for an "minor amendment" to CESA ITP No. 2018-2019-015-02 (See Cal. Code Regs., § 783.6(c)(4)). This Amendment (Amendment No. 2) will again alter the language of Condition of Approval No. 10 (Performance Security), thereby allowing the Permittee to complete the HM land acquisition process and submit proof of completion of that process to CDFW prior to starting Covered Activities and no later than June 1, 2025, and requires the Permittee to provide additional funding to ensure the impacts of the taking are minimized and fully mitigated. These changes were also reflected in the corresponding section of the Mitigation Monitoring and Reporting Program (MMRP) table.

CDFW now reissues this ITP including the revised provisions in this second minor amendment (Collectively, the Amended ITP). The Amended ITP includes all of the operative provisions as of the effective date of this Amended ITP. Attachment 5 to this Amended ITP shows the specific red-line changes made to the original ITP and Amendment 1 as a result of this minor amendment.

- CDFW finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).
- Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

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- Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

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

The original ITP was executed in duplicate original form and became effective when a duplicate original was acknowledged by signature of the Permittee on the last page of the original ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. The original ITP's effective date was August 20, 2019. This remains the effective date for the original take authorization. The Amended ITP shall be executed in the same manner and shall become effective once signed by CDFW. Unless renewed by CDFW, this Amended ITP's authorization to take the Covered Species shall expire on **June 1, 2029**.

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 7.7 of this ITP.

**Project Location:**

The Stonegate Development Project (Project) is located within the City of Chico, Butte County (See Figure 1). The Project is located at approximately Latitude 39°43'14.51"N, Longitude 121°47'5.04"W. The Project site is bounded by Skyway Road to the south and East 20<sup>th</sup> Street to the North.

**Project Description:**

The Project includes development of a 132-acre property into a combination of the following land uses:

- Public right-of-way: 28.4 acres
- Bruce Road Widening: 9.5 acres
- Bicycle Path: 0.7 acre
- Park: 3.5 acres
- Single-family residential, standard lots (338 lots): 68.9 acres
- Multi-family residential: 4 acres
- Storm Drain Disturbance Corridor west of Bruce Road: 1.16 acres
- Commercial: 16.6 acres
- Stormwater Facility: 5.4 acres
- Open Space (Stonegate Preserve): 132 acres (117.3 Project acres plus 14.7-acre Doe Mill-Schmidbauer Meadowfoam Preserve)

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Project activities include grubbing and grading, trench digging, road construction, stormwater facilities construction, and other activities as detailed below.

Construction of the project will be phased as following and as detailed in Figure 1 Map of the Project:

- Phase 1 development.** This phase will include the development of the 132-acre site east of Bruce Road. Construction activities will include mobilization, scraping the existing vegetation, and grading and fill of areas within the development footprint east of Bruce Road, and the 0.5-acre area west of and parallel to Bruce Road to accommodate the widening of Bruce Road and frontage improvements, as well as the 1.16-acre area within the 40-foot disturbance corridor west of Bruce Road and directly north of and adjacent to the northern boundary of the Canyon View High School Site, required for construction of storm drain infrastructure improvements supporting development east of Bruce Road, and the removal of three existing ±18 x 22-inch elliptical corrugated metal culvert pipes under Bruce Road located approximately 1,600 feet south of the Bruce Road and East 20<sup>th</sup> Street.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA/NPPA Status<sup>4</sup></u>
1. Butte County meadowfoam ( <i>Limnanthes floccosa</i> ssp. <i>californica</i> )	Endangered <sup>5</sup>

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

#### **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 are expected to result in incidental take of individuals of the Covered Species include grubbing and grading, trench digging, road construction, stormwater facilities construction, and other construction activities described above (Covered Activities).

<sup>4</sup> Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species. Under the NPPA, a plant species may be designated as endangered or rare.

<sup>5</sup> See Cal. Code Regs. tit. 14 § 670.2, subd. (a)(18)(C).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as removal of the seed bank for BCM during construction activities. The areas where authorized take of the Covered Species is expected to occur include: the 132-acre Project site east of Bruce Road (collectively, the Project Area).

Phase 1 of the Project is expected to cause the permanent loss of 0.10 acres of occupied habitat for the Covered Species. 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: long-term effects due to increased pollution, displacement from preferred habitat, and increased competition.

**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.

**Conditions of Approval:**

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2016062049) adopted by City of Chico on September 18, 2018, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

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**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. 1600-2018-0325-R2) 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 Formal Consultation on the Stonegate Subdivision Project (Biological Opinion No. 08ESMF00-2016-F-0236-3) 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. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed.

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- 6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 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 provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at each phase of the Project for permanent employees that will be conducting work in the Project Area.
- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- 6.6. 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.
- 6.7. 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.
- 6.8. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the

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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.

- 6.9. 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.
- 6.10. Project Access. Project-related personnel shall access the Project Area using existing routes 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.
- 6.11. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. 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 6.10 of this ITP.
- 6.12. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 6.13. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.14. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords,

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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 in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections at a minimum of each month during periods of inactivity and after clearing, grubbing, and grading are completed.
- 7.4. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to [R2CESA@wildlife.ca.gov](mailto:R2CESA@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.

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- 7.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 7.6. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.7. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 7.8. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity in areas that are not flagged as impacted by this ITP. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office

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at (916) 358-2930. The initial notification to CDFW shall include information regarding the location, species, and number of individuals 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 impacts, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

#### **8. Take Minimization Measures:**

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

- 8.1. Hydrological Study Report. **No later than thirty (30) days prior to starting construction activities covered under this ITP**, Permittee shall submit a hydrological study report to CDFW for review and approval. The report shall be prepared by a licensed California professional. The report shall assess project-related hydrologic changes to the proposed Stonegate preserve by completing a detailed hydrologic study. The study shall include development of accurate rainfall-runoff models that compare existing (i.e., pre-development) hydrologic conditions in the channels/swales and vernal pools within the proposed preserve with future conditions once the development is completed. The study shall utilize existing detailed topography for existing conditions, construction-level grading, and development plans for the future conditions. The grading and development plans shall include detailed graded topography, final storm water plans, and Best Management Practices (BMPs), particularly those along the entire boundary between the development footprint and the proposed preserve. The study shall address hydrological changes to the small drainage channels/swales and interconnected vernal pools within the proposed preserve. The study and report shall be sufficient to inform the proper design of storm water facilities, including associated BMPs, to ensure storm water from the development is properly managed onsite. **If new previously undisclosed impacts are discovered in this report, CDFW may require the implementation of new avoidance, minimization, and/or mitigation measures prior to starting construction activities covered under this ITP.**
- 8.2. Final Plans. **No later than thirty (30) days prior to starting construction activities covered under this ITP**, Permittee shall submit for review 100 percent design and engineering plans prepared for this project for all construction activities covered under this Agreement, including the master drainage plan. **If new previously undisclosed impacts are discovered when reviewing the final plans, CDFW may require the**

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**implementation of new avoidance, minimization, and/or mitigation measures prior to starting construction activities covered under this ITP.**

**9. Habitat Management Land Acquisition:**

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

To meet this requirement, the Permittee shall provide for both the permanent protection and management of 132 acres, supporting 4.46 acres of BCM occupied habitat at the Stonegate Preserve and provide a copy of the recorded perpetual conservation easement, and evidence of an endowment account for the perpetual management of the preserve for BCM. To fully mitigate the Project impacts to BCM, Permittee shall provide 1.9 acres of BCM occupied habitat.

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

9.1.1. Start-up costs for HM lands, including initial site protection and enhancement costs estimated at **\$69,657**.

9.1.2. Long-term management funding is **\$537,528**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management

9.2. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:

9.2.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe

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to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e).

9.2.2. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.

9.2.3. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.

9.2.4. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval; (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.

9.3. Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by

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establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required this ITP. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

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

9.3.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding

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necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

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

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

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

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

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

9.3.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

## 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 \$607,185. This amount is based on the cost estimates identified in Condition of Approval 9.1.
- 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. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 3) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 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:

- Written documentation of the acquisition of the HM lands

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- Copies of all executed and recorded conservation easements
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment
- Timely submission of all required reports

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements **no later than June 1, 2025**. If the Permittee does not complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements before commencing Covered Activities and no later than June 1, 2025, CDFW will evaluate the adequacy of the HM lands and funding and may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law.

**Amendment:**

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

**Stop-Work Order:**

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

**Compliance with Other Laws:**

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

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**Notices:**

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2018-082-02) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Morgan Kilgour, Regional Manager  
California Department of Fish and Wildlife  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670-4599  
Phone: (916) 358-2900  
Email: [R2CESA@wildlife.ca.gov](mailto:R2CESA@wildlife.ca.gov)

and a copy to:

Email: [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:

Region 2 CESA Program  
California Department of Fish and Wildlife  
North Central Region  
1701 Nimbus Road, Suite A  
Rancho Cordova, CA 95670  
Phone: (916) 358-2900  
Email: [R2CESA@wildlife.ca.gov](mailto:R2CESA@wildlife.ca.gov)

**Compliance with CEQA:**

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, the City of Chico. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Stonegate Vesting Tentative Subdivision Map and General Plan Amendment/Rezone EIR (SCH No. 2016062049) dated April 9, 2018, that the City of Chico adopted for the Project on September 18, 2018. At

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the time the lead agency adopted the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's EIR for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment. None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment.

**Findings Pursuant to CESA:**

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

CDFW finds based on substantial evidence in the ITP application, the Stonegate Vesting Tentative Subdivision Map and General Plan Amendment/Rezone EIR, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

1. Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP
2. Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of

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4.46 acres of compensatory habitat (Project requires 1.9 acres of BCM occupied habitat to fully mitigate the Project impacts) that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project

3. The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP
4. The measures required by this ITP maintain Permittee's objectives to the greatest extent possible
5. All required measures are capable of successful implementation
6. This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114
7. Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project
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

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**Attachments:**

FIGURE 1	Project Location
FIGURE 2	Project Impacts and Preserve
ATTACHMENT 1	Amended Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Letter of Credit Form
ATTACHMENT 3	HMLA Checklist
ATTACHMENT 4	Mitigation Payment Transmittal Form
ATTACHMENT 5	Minor Amendment No. 2 with Track Changes

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

on 7/2/2024

DocuSigned by:  
*Morgan Kilgour*  
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Morgan Kilgour, Regional Manager  
NORTH CENTRAL REGION

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