



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

California Endangered Species Act
Native Plant Protection Act
Incidental Take Permit No. 2081-2021-094-04

RIO MESA BOULEVARD PROJECT

I. 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 take¹ of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.² 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.)

Permittee:	Madera County
Principal Officer:	Matt Treber, Chief of Development Services
Contact Person:	Matt Treber, (559) 675-7821
Mailing Address:	Madera County Community and Economic Development 200 W. 4th Street, Suite 3100 Madera, California 93637

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 **January 31, 2048**.

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 Final Mitigation Report of this ITP.

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

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

III. Project Location:

The Rio Mesa Boulevard Project (Project) is located in southeastern Madera County approximately 15 miles east of the City of Madera and approximately 5 miles north of the City of Fresno and is within Sections 21, 22, 27, 28, 33, 34, Township 11 South, Range 20 East, and Sections 3 and 4, Township 12 South, Range 20 East (Mount Diablo Base and Meridian) of the "Lanes Bridge, California" 7.5-minute quadrangle (United States Geological Survey [USGS] 1964 and 1973) (Figure 1). The appropriate center of the Project is located at 36.940531° and -119.782054°.

IV. Project Description:

The Rio Mesa Boulevard (RMB) Project (Project) is within a 359.7-acre area (Figure 1). The Project encompasses 92.45 acres which includes grading limits (57.96 acres), construction staging (2.65 acres), and the temporary construction easement (31.84 acres) (Figure 2). The Project will include construction of RMB, a 2.3-mile segment of new roadway, road widening a 2,200-foot segment of Avenue 12, and installation of utilities within the RMB right-of-way and the two linked utility line corridors (Figure 2). The Project will provide a connection between the State Route (SR) 41/Avenue 12 intersection in the south to the southernmost point of the internal road network within the Tesoro Viejo Master Planned Community (Tesoro Viejo) to the north. The Project will provide utility infrastructure between Avenue 12 and Avenue 14 and along an approximate one-mile segment of Avenue 14 (Figure 2).

The Project will be constructed in two phases, Phase I and Phase II. The Project will also have a period of operation and maintenance (O&M) following the completion of Phase I to maintain Project features until the commencement of Phase II.

Phase I includes construction of a two-lane roadway, 24 feet wide, along the proposed RMB right-of-way. Associated features include a stop control at the RMB/Avenue 12 intersection, six-foot-wide shoulders, fire hydrants, streetlights, and roadway signage and striping. Additional Phase I activities include improvements to Avenue 12 from the SR 41/Avenue 12 intersection to the RMB/Avenue 12 intersection by overlaying the existing two travel lanes that lack shoulders, with two 12-foot travel lanes with 6-foot paved shoulders, a left-turn pocket to northbound RMB and an acceleration taper lane on Avenue 12 for southbound RMB traffic. Streetlights will be installed in the planter strip located between the curb and the sidewalk and will be spaced approximately 150' apart. The streetlights are of standard pole type design and will be designed to direct the light downward onto the roadway to illuminate the roadway area. Phase I will grade areas where the two additional lanes of RMB and Avenue 12 are scheduled to be constructed during Phase II, and drainage swales and interim landscaping will be installed and maintained until the start of Phase II construction activities. Specific activities listed below include vegetation removal and grading, preparation of construction staging areas, storm water best management practices (BMPs), utility installation, linked utility corridor construction, California tiger salamander movement corridor crossing construction, road base preparation and surfacing, street light installation, intersection control(s) installation, and initial landscape corridor preparation.

Phase II will construct two additional travel lanes on RMB and two paved six-foot-wide bike lanes along RMB. Phase II will also complete the installation of curbs, gutters, remaining streetlighting, permanent landscaping and sidewalks along RMB. During Phase II construction, two travel lanes will also be added to the segment of Avenue 12 between the RMB/Avenue 12 intersection and SR 41, together with bike lanes in each direction, curbs, gutters on both sides, streetlighting, landscaping and a 6-foot sidewalk on the north side.

Phase II will also modify stop controls at the RMB/Avenue 12 intersection and will install traffic signal modifications at the SR 41/Avenue 12 intersection to allow for two east-bound travel lanes, one left turn, one left-through, and one right-turn lane on SR 41. Construction of Phase II of RMB will be initiated at a time when future traffic conditions indicate that the expansion of RMB from two lanes to four is warranted (i.e., when traffic volumes on RMB approach 16,000 vehicles per day). Construction of Phase II is estimated to take nine months to complete. Specific activities listed below include road base preparation and surfacing, and installation of traffic controls and signage, curbs and gutters, and landscaping.

Construction Equipment for Phase I and Phase II construction activities will include the use of the following equipment, but not limited to: excavators; graders; rubber-tired dozers; scrapers; trucks, tractors, loaders, backhoes; bobcat with auger; rollers; surfacing equipment; trenchers; curb machine; and pavers.

Vegetation Removal and Grading

In preparation for construction of Phase I, a roadway, related features, and the two linked utility corridors, will be graded. Approximately 580,000 cubic yards (cy) of material will be used to create the final grade in advance of road base placement and utilities installation. Cut and fill material will be collected from within the defined grading limits of the Project or from existing stockpiles adjacent to the water storage pond in Tesoro Viejo if needed. Areas on which two additional lanes of RMB and Avenue 12, constructed during Phase II, will be graded during Phase I and BMPs installed in these areas will be maintained through the start of Phase II construction activities. Areas that are hydroseeded during Phase I will be maintained through weed abatement and will not require irrigation.

Construction Staging Area Preparation

During Phase I, three construction staging areas will be established totaling approximately 2.65 acres (Figure 2). Staging area preparation will include vegetation removal and may require minor grading and fill. Construction staging areas will be used for equipment and material storage and construction worker parking. At the completion of Phase I construction, the staging areas will be revegetated to provide soil stabilization in accordance with BMPs. The Project includes grading limits subject to permanent habitat alteration and a temporary construction easement outside the grading limits that may be subject to disturbance by equipment or personnel during construction of Phase I and Phase II of the Project (Figure 2). Areas within the Project grading limits will be subject to grading activities during both Phase I and Phase II of Project construction.

Stormwater BMPs Installation

Stormwater drainage collection and conveyance facilities will be located within the RMB right-of-way and will consist of pipelines, culverts, manholes, drain inlets, head walls, flared end sections, and riprap. A storm drain system will be installed in Avenue 12 in addition to graded roadside swales. Installation of the culverts, drainpipes and drain inlets and construction of roadside swales to the drain system collection points will be part of Phase I. Roadside swales will be hydroseed (stabilized) and burlap straw waddle check dams will be placed every so often in these swales (following standard BMP's) and will be maintained as needed. All disturbed areas (bare ground) between the edge of Phase I improvements and the limits of the temporary construction easement will be completely stabilized by hydroseed following construction. The construction of RMB Phase I is expected to start in 2024 and take approximately one year to complete.

Utilities Installation

During Phase I, installation of utilities lines (i.e., natural gas lines, potable water, wastewater, recycled water, and storm water drainage (sized for future use by adjacent parcels anticipated to be developed with the land use intensities specified in the Rio Mesa Area Plan (RMAP)), will take place. Utilities installation (both wet and dry) will be installed using industry standard open cut trenching and backfilling techniques. Pipes will be installed either by hand or by machinery. The average depth of utilities will be six feet, except for the gravity sewer lines which may be up to 25 feet deep.

Proposed utility installations include the following (all lengths are approximate):

- 22,000 linear feet (LF) of potable water lines ranging in size from four to 16 inches in diameter.
- 22,000 LF 8-inch recycled water line.
- 13,200 LF 8-inch sewer force main.
- 17,000 LF 8- to 10-inch gravity sewer lines.
- 13,500 LF of conduits for dry utilities (e.g., electric, telephone, cable, fiber, and natural gas) ranging in diameter from 1.5-8 inch.

Linked Utility Line Corridors

To create the linked utility corridors, a 30-foot-wide easement will be cleared along the proposed corridor alignments. Utility lines will be placed in the trenches at the respective depths (described above), trenches will be backfilled, and the easement will be graded for maintenance road surfacing. A permanent 10-foot-wide maintenance access road will be completed with an aggregate base surface. Graded areas adjacent to the access roads will be hydroseeded. These areas will be maintained by weed abatement and will not require irrigation. Installation of some or all utilities within the RMB right-of-way and the utility corridors may occur later than the roadway construction.

California Tiger Salamander Movement Corridor Crossings

The Project includes a California tiger salamander exclusion curb, a six-inch raised concrete curb (at the back of the proposed sidewalk location) along RMB to keep California tiger salamander from accessing the roadway and to direct their movements to a series of

culverts (Figure 3). Culvert interior dimensions will be approximately five feet tall and 10 feet wide to allow California tiger salamander and other wildlife to more safely pass under the roadway.

Road Base Preparation and Surfacing

Upon completion of final grading of the Phase I roadway, approximately 100,000 tons of road base material (i.e., crushed rock) will be placed along RMB and Avenue 12 rights-of-way and compacted. After placement of road base material, the Phase I roadway section will be paved with asphaltic concrete. Paving of the Phase I two-lane roadway and related features (including RMB construction and improvements to Avenue 12) will require approximately 29,800 tons of asphalt. Road base material and asphalt will be obtained and delivered to the site from permitted area sources.

Phase I will also include improvements to Avenue 12 between SR 41 and RMB. The existing segment of Avenue 12 consists of two 12-foot travel lanes with no paved shoulders. The Project will overlay and widen this segment to two 12-foot travel lanes with six-foot paved shoulders. Phase I improvements will also install a left turn lane from eastbound Avenue 12 to northbound RMB and a westbound acceleration taper lane on Avenue 12 from RMB. All Phase I improvements on Avenue 12 will be outside of the existing Caltrans SR 41 right-of-way.

Phase II will require approximately 21.8 acres of clearing and grading and approximately 52,800 cubic yards of earthmoving to establish a final grade for the Phase II roadway. Approximately 56,400 tons of road base will be placed during Phase II in preparation for surfacing. Paving for Phase II will require approximately 16,800 tons of asphaltic concrete. Road base material and asphalt will be obtained and delivered to the site from permitted area sources.

Street Light Installation

During Phase I, street lighting will be installed along the project segment of RMB within the future landscape portion of the right-of-way. Lights will be placed at select locations along the alignment and at intersections. All lighting will be shielded to assist with directing lighting to the roadway. Electricity for the lighting system will be provided in electrical distribution lines within the underground conduit system installed in Phase I with surface connection points located at various locations within the right-of-way perimeter areas.

Landscape Corridors Preparation

At the end of Phase I construction, disturbed areas, including landscape corridors and unpaved portions of the right-of-way, will be cleared of any remaining construction materials, and hydroseeded. Areas that are hydroseeded during Phase I will be maintained by weed abatement and will not require irrigation. Phase I construction activities will also include the grading of the permanent landscape corridors; however, these corridors will not be finished (e.g., planted) until Phase II.

Traffic Controls and Signage

Stop controls at the RMB/Avenue 12 intersection installed during Phase I of the Project will be relocated during Phase II to accommodate Avenue 12 and RMB improvements. The existing traffic signal system at SR 41/Avenue 12 intersection will also be modified as part of Phase II of the Project in coordination with Caltrans. This modification will occur on the east side of SR 41 to accommodate two east bound travel lanes, one left turn, one left-through, and one right turn lane for west bound traffic.

Sidewalks, Curbs and Gutters, and Landscaping

During Phase II construction, six-foot-wide concrete sidewalks will be constructed parallel to the RMB roadway right-of-way along with additional curbs and gutters. An estimated 4,000 tons of concrete will be required for Phase II sidewalk/curb/gutter construction.

Landscaping will be installed along the RMB right-of-way in Phase II within the corridors established in Phase I. Landscaping will consist of trees, shrubs and ground cover that are indigenous to the area and will be located within planter strips alongside the roadways and on slope banks. Irrigation water will be from recycled water sources from the Tesoro Viejo wastewater treatment plant and will be delivered via a recycled water system located within the utility line corridors and roadway right-of-way and delivered to the planting areas via an irrigation system which will utilize drip irrigation.

Operations and Maintenance (O&M) Activities

O&M phase activities will occur following Phase I construction and before Phase II construction commences. Areas subject to O&M phase activities are those areas disturbed during Phase I construction which may require vegetation maintenance, grading upkeep, exclusion fence repair and upkeep, and repair of any infrastructure failures. Vegetation maintenance, minor road and fence repair O&M activities are expected to be conducted with hand tools and will include a truck and trailer to transport materials. Larger repairs may require mechanical equipment as appropriate.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA/NPPA Status³</u>
1. California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ⁴
2. Succulent owl's clover (<i>Castilleja campestris</i> ssp. <i>succulenta</i>)	Endangered ⁵

These species and only these species are the "Covered Species" for the purposes of this ITP.

³ 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.

⁴See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).

⁵See Cal. Code Regs. tit. 14 § 670.2, subd. (a)(22)(A).

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 all activities associated with new roadway construction, installation of new utilities, culverts, drainpipes and drain swales, traffic signals and a six-foot-wide bike lane. Project activities include grubbing and grading, excavation, open cut trench digging, backfilling, pile driving, road construction, and other activities. This includes ground and vegetation disturbance during initial grading, scraping, excavating, digging, trenching, stockpiling, backfilling, compacting, paving and drilling in association with road construction and installation of underground utilities, landscaping, fencing, operation of heavy equipment, maintenance road surfacing, vehicle and foot traffic, and other activities necessary for the full development, operation, and maintenance of the roadway additions and improvements (Covered Activities).

California Tiger Salamander (CTS)

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as Project related clearing, grubbing, excavating, cut and fill, trenching, backfilling, soil compaction, fine and rough grading, paving, dust control, vehicle traffic, foot traffic, slope stabilization, erosion control, landscaping, and installation of drainage improvements, utilities, and other ground disturbing activities resulting in CTS potentially falling into pits, trenches, or other excavations leading to desiccation, predation, entombment, or starvation; trampling by heavy equipment operation; vehicle strikes and foot traffic; inadvertent burrow collapse, and take during habitat restoration, and management.

Succulent Owl's Clover (SOC)

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as clearing, grubbing, vegetation removal, excavating, cut and fill, trenching, backfilling, soil compaction, fine and rough grading, paving, dust control, vehicle traffic, foot traffic, slope stabilization, erosion control, landscaping, and installation of drainage improvements, utilities, and irrigation. Additionally, seedbanks within the wetlands at the Project site where succulent owl's clover occurs will be destroyed by initial grading activities along with trampling by construction vehicles and workers.

All Covered Species

Incidental take of individuals of both Covered Species may also occur from the Covered Activities in the form of pursuit, catch, capture, or attempt to do so, during monitoring and possible relocation of the Covered Species, including capture and relocation of CTS and topsoil collection and redistribution that may include SOC seeds. In addition, impacts to the Covered Species include reduction of habitat quality related to dust and particle emissions from Covered Activities including but not limited to, soil compaction, habitat fragmentation, species isolation, and competition with introduced invasive plant species on disturbed soils. The areas where authorized take of the Covered Species is expected to occur include: construction staging areas, temporary construction easement(s), grading limits, wetlands within the Project Area, linked utility line corridors, proposed culverts, inside grading limits and the temporary construction easement (collectively, the Project Area).

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The Project is expected to cause the permanent loss of 49.90 acres of annual grassland which provides CTS dispersal and refugia habitat, 41.50 acres of disked agricultural land and 0.18 acre of seasonal wetlands and swale (Figure 4) which both provide CTS dispersal habitat, and 0.87 acres of vernal pools which provides CTS breeding and SOC habitat. While CTS may disperse across the agricultural lands, these areas typically lack refugia and pose a higher risk for predation and desiccation. The seasonal wetlands and swale are not expected to pond long enough to typically provide usable breeding habitat. Filling (with soil) of the vernal pools will result in the loss of at least 67 SOC individuals in features VP-08, VP-13b, and VP-98 (Figure 5). Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, loss of micro habitats, and the Project's incremental contribution to cumulative impacts (indirect impacts). For CTS these impacts include: stress resulting from noise and vibrations from tunneling and capture and relocation, early emergence from burrows as a result of construction vibration increasing their risk of predation and desiccation, increased competition for food and space, disorientation due to artificial lighting, loss of foraging opportunities, and displacement from preferred habitat; For SOC these impacts include: impacts to adjacent habitat from dust and sedimentation, long-term effects due to increased pollution, loss of essential mycorrhizal symbioses, and changes in hydrology affecting germination of remaining SOC seed and adjacent populations.

VII. Incidental Take Authorization of Covered Species:

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

VIII. Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, State, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Rio Mesa Boulevard Project Final Environmental Impact Report Environmental Impact Report

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(SCH No.: 2017101048) certified by Madera County on June 17, 2021, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

3. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Rio Mesa Boulevard and Community Medical Center Water Supply- Project (SPK-2019-00804) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
4. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
5. **General Provisions:**
 - 5.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 5.2. Designated Biologist(s) and Designated Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, contact information, and references with contact information of Designated Biologist(s) and Designated Monitor(s) using the Biologist Resume Example (Attachment 2) or another format containing the same information. This information shall be submitted for CDFW review and approval at least 30 days before starting Covered Activities. The Designated Biologist(s) and Designated Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of the Covered Species and to minimize disturbance of Covered Species' habitat. The Designated Monitor(s) shall assist the Designated Biologist(s) in compliance monitoring under direction/supervision of the Designated Biologist(s). Designated Monitor responsibilities will be restricted to a specific set of Conditions of Approval, specified by the Permittee or Designated Representative at the time their qualifications are submitted for review. Permittee shall ensure that the Designated Biologist(s) and Designated Monitor(s) are knowledgeable and experienced in the Covered Species' biology and natural history. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Designated Monitor(s) in

writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Designated Monitor(s) must be changed.

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

- 5.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 5.7. Dust Control.** Permittee shall implement dust control measures during construction and O&M Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 5.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 5.9. Delineation of Property Boundaries.** Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 5.10. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 5.11. Project Access.** Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour (mph) to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 5.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked

Project Area unless provided for as described in Condition of Approval Project Access of this ITP.

- 5.13. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.14. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.15. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting construction phase Covered Activities and O&M phase Covered Activities within the Project Area and shall provide CDFW with documentation of compliance with all applicable Project Conditions of Approval before starting any phase.
- 6.2. Lapse in Continuity of Covered Activities. Should an unplanned or planned lapse of construction or O&M phase Covered Activities occur at any work area for more than 30 calendar days, Condition of Approval Notification Before Commencement shall be followed.
- 6.3. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.
- 6.4. Geographic Information Systems Data Files. At least 30 days prior to the start of construction phase(s) Covered Activities, the Permittee shall provide CDFW with separate Geographic Information Systems (GIS) data files for the temporary and

permanent habitat impact areas authorized under this ITP for the Covered Species for the Covered Activities. If habitat for a Covered Species will be both temporarily and permanently impacted, the Permittee shall provide one set of GIS data files for each impact type. The Permittee shall provide any additional GIS data files for the Project or related Covered Species features within 30 days of CDFW's request. All GIS data files shall be provided in a format acceptable to CDFW. The Permittee shall also provide GIS data files for the temporary and permanent habitat impacts areas authorized under this ITP for the Covered Species for the completed Covered Activities as part of the Condition of Approval Final Mitigation Report.

- 6.5. Compliance Monitoring.** The Designated Biologist shall be on-site daily when construction phase Covered Activities occur, or ground disturbing O&M phase Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading 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, survey results, and monitoring activities required by this ITP.

- 6.6. Quarterly Compliance Report (Construction Phases and O&M Phase).** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval Compliance Monitoring into a Quarterly Compliance Report during the construction phases and O&M phase and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Stephanie Manzo (stephanie.manzo@wildlife.ca.gov), the CDFW Regional Office e-mail is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW

determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

- 6.7. Annual Status Report (Construction Phases and O&M Phase).** Permittee shall provide CDFW with an Annual Status Report (ASR) during the construction phases and O&M phase 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 Quarterly Compliance Report; (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 Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance during the Construction Phase, both for the prior calendar year, and a total since ITP issuance; (7) beginning and ending dates of any O&M activities undertaken during the reporting period; (8) summary of the type and location on a map of O&M activities during all previous reporting periods; and (7) information about other Project impacts on Covered Species.
- 6.8. 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 Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.9. 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 Covered Species; (4) information about other Project impacts on 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 Covered Species; and (8) any other pertinent information.
- 6.10. Notification of Take or Injury/Damage.** Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured/damaged by a

Project-related activity, or if a Covered Species is otherwise found dead or injured/damaged within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by emailing the Regional Office at R4CESA@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, and number of animals/plants taken or injured/damaged 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/plant or carcass, and if possible, provide a photograph, explanation as to cause of take or injury/damage, and any other pertinent information.

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

Construction Phase(s) Covered Activities Take Minimization Measures

California Tiger Salamander (CTS) Measures

- 7.1. CTS Pre-Activity Clearance Survey and Reporting.** No more than 14 days prior to any vegetation- or ground-disturbing activities at the Project Area, the Designated Biologist shall survey that part of the Project Area which represents potential habitat for CTS. These surveys shall provide 100 percent visual coverage of the potential habitat (including burrow and crevice openings) at the Project Area as well as a 50-foot buffer zone around the Project Area. If CTS individuals are found, the Designated Biologist(s) shall relocate them from the Project Area in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan. The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities within the Project Area.
- 7.2. CTS Mortality Reduction and Relocation Plan.** The Designated Biologist shall prepare a CTS Mortality Reduction and Relocation Plan and submit it to CDFW for approval prior to the start of Construction Phase Covered Activities. The CTS Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area which represents potential upland habitat; the area within 1.3 miles of known or potential breeding habitat for CTS; an identification of survey, capture, handling, and relocation methods; identification of relocation areas; specifications of the fencing which will be installed to exclude CTS from the Project Area (CTS Exclusion Fencing); details regarding the use of coverboards which will be employed accessory to the exclusion fencing; plans for timing of fence and coverboard usage and fence maintenance; and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the CTS Mortality Reduction

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and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling CTS unless approved in writing by CDFW and under the direct supervision of the Designated Biologist(s).

- 7.3. Flag Burrows/Crevices.** During the CTS Pre-Activity Clearance Surveys, the Designated Biologist shall flag all animal burrows and crevices suitable for CTS occupancy within the Project Area. Flagged burrows/crevices which occur within 600 meters of known or potential breeding habitat and which cannot be avoided by at least 50 feet shall be fully excavated in accordance with Condition of Approval Burrow and Crevice Excavation below.
- 7.4. Burrow and Crevice Excavation.** Prior to any Construction Phase vegetation- or ground-disturbing activities, those animal burrows and crevices identified during the CTS Pre-Activity Clearance Surveys and Condition of Approval Flag Burrows/Crevices within 600 meters of known or potential CTS breeding habitat as identified in the CTS Mortality Reduction and Relocation Plan, and which cannot be fully avoided by at least 50 feet and which fall directly in the Project Area, shall be fully excavated. Applicable burrows/crevices may be excavated by hand or in a manner otherwise approved by CDFW in accordance with the CDFW approved CTS Mortality Reduction and Relocation Plan. Burrow/crevice excavation shall occur under the direct supervision of the Designated Biologist(s).

The Designated Biologist(s) shall relocate any live CTS discovered during burrow/crevice excavation in accordance with the CTS Mortality Reduction and Relocation Plan. Excavation shall occur no more than 14 days after the completion of the CTS Pre-Activity Clearance Surveys.

- 7.5. CTS Exclusion Fencing.** After surveying, flagging, and excavating burrows and crevices in accordance with Conditions of Approval CTS Pre-Activity Clearance Survey and Reporting, Flag Burrows/Crevices, and Burrow and Crevice Excavation above, exclusion fencing (with cover boards) shall be installed to prevent individuals of the Covered Species from migrating into the cleared Project Area. The Covered Species exclusion fencing shall be installed in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan. The exclusion fence shall be installed no later than 48 hours after the burrow and crevice excavation/relocation work is completed. Permittee shall also avoid animal burrows and crevices outside but within 50 feet of the cleared Project Area to the maximum extent possible during the installation of the exclusion fencing if it involves shallow trenching or driving stakes.
- 7.6. CTS Record of Observations and Handling.** All CTS captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the CTS; circumstances of the incident; the general condition and health of each

individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval CNDDDB Observations. This information shall also be included in Quarterly Compliance Reports and ASRs.

- 7.7. Dry Season Work. Construction Phase ground-disturbing activities within or immediately adjacent (within 250 feet) to potential CTS breeding habitat shall not occur until the pools are dry unless surveys are conducted to demonstrate the absence of CTS eggs and larvae in these pools.
- 7.8. Fieldwork Code of Practice. To ensure that disease is not conveyed between CTS habitats by the Designated Biologist(s) or Designated Monitor(s), the Fieldwork Code of Practice developed by the Declining Amphibian Populations Task Force (see Attachment 3) shall be followed at all times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.
- 7.9. Rain Forecast. The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 50 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Construction Phase Covered Activities in all Project Areas where initial ground or vegetation disturbance has yet to occur until no further rain is forecast. Work may continue 24 hours after the rain ceases and there is no precipitation in the 72-hour forecast. Project Areas that have already been previously disturbed with all applicable Conditions of Approvals implemented and are surrounded by CTS Exclusion Fencing may continue Covered Activities during rainfall events.
- 7.10. Night Work. Permittee shall strictly prohibit any Construction Phase work between sunset and sunrise when a 70 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until zero percent chance of rain is forecast. Covered Activities may occur between sunset and sunrise within Project Areas where all applicable Conditions of Approval have been implemented and enclosed with CTS Exclusion Fencing.
- 7.11. CTS Injury. If a CTS 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 CTS. The Permittee shall notify CDFW of the injury to the CTS immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval Notification of Take or Injury/Damage. Notification shall include the name of the facility where the animal was taken.

- 7.12. Open Excavations.** The Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day (including weekends and any other non-workdays) for trapped CTS. To prevent inadvertent entrapment of CTS, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the worker(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier potentially allowing CTS to enter and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. Worker(s) shall thoroughly inspect all trenches, holes, sumps, or other excavations for CTS (or other wildlife) before they are back-filled. If any worker discovers that CTS have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow CTS to escape unimpeded, if possible, before Covered Activities are allowed to continue, or the Designated Biologist(s) may capture and relocate CTS in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan.
- 7.13. Vehicle and Equipment Inspection.** Within the Project Area, workers shall inspect under vehicles and equipment for CTS before the vehicles and equipment are moved. If a CTS is present, the worker shall notify the Designated Biologist(s) and wait for the CTS to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move the CTS out of harm's way outside of the Project Area in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan.
- 7.14. Pipes and other Structures Entrapment Prevention.** Permittee shall ensure that all pipes, hoses, conduit, culverts, or similar materials stockpiled or installed in the Project Area are capped or otherwise enclosed at the ends to prevent entry by CTS. Workers shall thoroughly inspect all construction pipe, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the CTS before the object is subsequently moved, buried, or capped. If a CTS is discovered inside a pipe, culvert, or similar structure during inspection, the worker shall notify the Designated Biologist(s) and wait for the CTS to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move the CTS out of harm's way outside of the Project Area in accordance with the CDFW-approved CTS Species Mortality Reduction and Relocation Plan.
- 7.15. Stockpiled Fill Inspection.** The Designated Biologist(s) shall thoroughly inspect all stockpiled fill for burrows/crevices potentially occupied by CTS before the fill is

subsequently moved. If during inspection, burrows/crevices are observed the Designated Biologist(s) will excavate the burrows/crevices per the Condition of Approval Burrow/Crevise Excavation and in accordance with the approved CTS Mortality Reduction and Relocation Plan.

- 7.16. Curbs, Berms, and/or Dikes.** Permittee shall not construct roadways with steep curbs, berms, or dikes, which prevent CTS from exiting the roadway. If curbs are necessary for safety and/or surface runoff, Permittee shall design them to allow CTS to walk over them. Caltrans' Standard Plan Type E curbs and Type D and Type E dikes are preferred designs and shall be used where possible (refer to The Caltrans' Standard Plan A87, Curbs, Dikes, and Driveways). These rounded or gently sloping structures allow CTS to crawl over them. If steep dikes are required, design shall include over-side drains or curb/dike breaks spaced at intervals of 25 feet to allow CTS passage.

Succulent Owl's Clover (SOC) Measures

- 7.17. SOC Pre-Activity Clearance Surveys and Reporting.** Vernal pools, swales, or wetland habitat features and areas with Rocklin sandy loam, pumiceous variant soil type within the Project Area shall be surveyed by the Designated Biologist(s) prior to beginning Construction Phase Covered Activities. The surveys shall be floristic in nature, visually cover 100 percent of the entire vernal pool(s), swale(s), or wetland(s) habitat feature and a 50-foot buffer zone, and shall be timed appropriately to detect SOC. The Permittee shall provide the survey results to CDFW in a written report no more than 30 days prior to the beginning of Covered Activities.
- 7.18. SOC Avoidance Buffer and Fencing.** All SOC that would not be directly impacted by ground-disturbing activities shall be avoided by a minimum of 50 feet. Sturdy, highly visible, orange plastic construction avoidance fencing shall be installed around SOC avoidance areas and located in accordance with direction from the Designated Biologist(s). Fencing shall be permeable (e.g., safety fencing) to encourage natural sand accretion and deposition patterns. Fencing shall be securely staked and installed in a durable manner that would be reasonably expected to withstand wind and weather events and last at least through the Construction Phase. During construction phases, fencing shall be inspected at least biweekly, even during periods of inactivity, and maintained and/or replaced as necessary to prevent creation and spread of fencing-related litter. Fencing shall be removed upon completion of construction Covered Activities in the discrete area containing the fencing. The Permittee may request a buffer reduction and shall include the distance of the reduced buffer and an analysis of potential risks to SOC, including but not limited to, potential risks from erosion, changes in hydrology, and risks from any possible dust or chemical drift. The buffer reduction shall not be implemented without advance written approval by CDFW.

- 7.19. Herbicide Use.** Permittee shall prohibit the use and/or application of herbicides/pesticides within the Project Area without written permission from CDFW. Permittee shall ensure that all herbicide/pesticide use (mixing, application, and clean-up) is done by a licensed applicator in accordance with all applicable State, federal, and local regulations. Permittee shall only apply herbicide/pesticide sprays via ground application when wind speeds measure less than 3 mph. Permittee shall ensure that great care is taken to avoid herbicide/pesticide contact with any native vegetation and all herbicide sprays utilized within and adjacent to identified habitat features suitable for Covered Species contain a dye (registered for aquatic use by the California Department of Pesticide Regulation, if warranted) to prevent overspray.
- 7.20. Avoid Introduction of Herbicides/Pesticides into Waters.** Permittee shall ensure herbicide/pesticides mixing sites are only located in areas devoid of vegetation, and where there is no potential of a spill reaching a vegetated area, stream, vernal pool or wetland. Permittee shall ensure that any herbicide/pesticide used where there is the possibility that the herbicide could come into direct contact with water is approved for use in an aquatic environment.
- 7.21. Vegetation Removal.** In areas where mechanical vegetation removal will take place, vegetation shall not be broadcast, otherwise distributed, or left in place to cover undeveloped native soil within or adjacent to the Project Area. Permittee shall require any chipped material be chipped directly into a containment vessel (e.g., chip truck) during removal activities, hauled off site, and properly disposed of following removal activities. No chipped material shall be broadcast or otherwise used as mulch or ground cover within the Project Area or adjacent to it. Permittee shall prohibit use of masticators or other mechanical vegetation removal equipment that broadcasts woody debris or otherwise covers undeveloped native soil within or adjacent to the Project Area.
- 7.22. Invasive Exotic Plant Species Removal.** All invasive exotic plant species, identified in the California Invasive Plant Council Inventory (<https://www.cal-ipc.org/plants/inventory/>), that are disturbed by the Project shall be removed from the Project Area. Invasive exotic plant species shall be bagged and appropriately disposed of in a manner that avoids the risk of introduction or spreading of exotic species in or around the Project Area. Exotic species shall not be used in mulching, composting, or otherwise placed in or around the Project Area. Permittee shall not stockpile cut invasive plant material within the Project Area at any time.
- 7.23. Landscaping Plan.** Prior to implementation of Covered Activities, Permittee shall submit a Landscaping Plan to CDFW for review and approval. The Landscaping Plan shall include detailed specifications for all initial landscaping installation activities (including erosion control and slope stabilization activities), such as species composition of seed mixes, seed application or planting methods, plant palettes, planting substrates (e.g., weed free straw or mulch), description and

specifications of landscaping materials and their sources, and location of landscaping activities. The Landscaping Plan shall: (1) include a list of species that will be used in landscaping; (2) limit landscaping to plant species that are non-invasive and not identified in the California Invasive Plant Council Inventory (<https://www.cal-ipc.org/plants/inventory/>); (3) describe herbicide/pesticide-free methods (e.g., hand-pulling, etc.) for weed management; and (4) confine landscaping activities (including tree replacement plantings) to within the Project Area. Because maintenance of landscaping is not a Covered Activity, the Landscaping Plan shall describe clear criteria for when initial landscaping is considered complete, along with a reporting requirement to CDFW to memorialize that initial landscaping has been completed. This reporting requirement can be an element of the Quarterly Compliance Report. The Landscaping Plan shall also include requirements for implementation of an open space buffer, in accordance with Condition of Approval Open Space Buffer below, in portions of the Project Area that border (1) any adjacent proposed Habitat Management Lands and (2) other adjacent intact SOC habitat, as determined by a Designated Biologist in consultation with CDFW.

- 7.24. Open Space Buffer.** Edge effects resulting from landscaping, landscaping management, and soil stabilization practices implemented within the Project Area have the potential to affect: (1) the adjacent proposed Habitat Management Lands; and (2) other areas adjacent to the Project Area which support potential SOC habitat. To prevent such edge effects, prior to initiation of Construction Phase Covered Activities the Permittee shall submit, as an element of the Landscaping Plan, a requirement for implementation of an open space buffer of suitable width. The open space buffer width and areas of implementation shall be clearly described within the Landscaping Plan. In addition, the following shall be prohibited within the open space buffer: (a) landscaping with plant species identified in the California Invasive Plant Council Inventory (<https://www.cal-ipc.org/plants/inventory/>); (b) use of stabilizing ground cover material (hydroseeding, coir netting and non-filament mesh, etc.); (c) use of pesticides/herbicides; (d) and use of non-manual methods of plant removal. The Landscaping Plan shall also clearly describe any activities planned within the open space buffer.
- 7.25. Heavy equipment.** Heavy equipment used in implementation of Covered Activities shall be thoroughly washed and inspected prior to its use on site to prevent introduction of invasive, exotic plant material (seeds, etc.) from being introduced to the Project Area or adjacent habitats.

O&M Phase Covered Activities Take Minimization Measures

- 7.26. O&M Covered Activities Requirement.** Permittee shall implement all General Provisions and Monitoring, Notification and Reporting Provisions of this ITP for all O&M phase Covered Activities as applicable.

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- 7.27. O&M Covered Activities Designated Biologist On-site.** The CDFW-approved Designated Biologist(s) and/or Designated Monitor(s) shall be on-site during all ground disturbing activities as applicable by Condition of Approval Designated Biologist(s) and Designated Monitor(s). Should burrow or crevices suitable for CTS occupancy be observed during O&M Covered Activities, burrows/crevices shall be excavated as described in the Condition of Approval Burrow and Crevice Excavation.
- 7.28. O&M Covered Activities Work Hours.** Permittee shall confine any O&M Covered Activities to daylight hours (sunrise to sunset) or as otherwise allowed in the Condition of Approval Night Work.
- 7.29. O&M Covered Activities Vehicle Parking.** During all O&M Covered Activities or species-specific take minimization measures, Permittee shall not allow vehicles to park on top of animal burrows or crevices potentially occupied by CTS. Vehicles left overnight shall not be located within 50 feet of animal burrows or crevices potentially occupied by CTS.
- 7.30. O&M Phase Vehicle and Equipment Inspection.** During all O&M Covered Activities, workers shall inspect for CTS under vehicles and equipment every time the vehicles and/or equipment are moved. If a CTS is present, the worker shall contact the Designated Biologist(s) and wait for the CTS to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move the CTS out of harm's way outside of the Project Area in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan.
- 7.31. O&M Covered Activities Pipes and Materials Inspection.** Permittee shall ensure that all pipes or similar materials stockpiled or staged in the Project Area be capped or otherwise enclosed at the ends to prevent entry by CTS. Permittee shall not leave any permanent pipes or similar materials or structures open where CTS may enter them and become trapped. The Designated Biologist shall thoroughly inspect all such materials for CTS before they are moved, buried, or capped. If a CTS is discovered inside such material, that section of material shall not be moved until the animal has escaped of its own accord. Alternatively, the Designated Biologist(s) may move the CTS out of harm's way outside of the Project Area in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan.
- 7.32. O&M Covered Activities Covered Species Observations.** During all O&M Covered Activities, all workers shall inform the Designated Biologist(s) if a CTS is observed within or near the Project Area. All work in the vicinity of the CTS, which could injure or kill the animal, shall cease immediately until the CTS moves from the Project Area of its own accord or is relocated by the Designated Biologist(s) in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan.

- 7.33. O&M Herbicide/Pesticide Use.** During the O&M phase, Conditions of Approval Herbicide and Avoid Introduction of Herbicides/Pesticides into Waters shall be followed.
- 7.34. O&M Vegetation Maintenance.** During the O&M phase, Conditions of Approval Vegetation Removal and Invasive Exotic Plant Species Removal shall be followed.
- 7.35. O&M CTS Exclusion Fencing Maintenance.** During the O&M phase should CTS Exclusion Fencing remain in place for the allowances provided by Conditions of Approval Rain Forecast and Night Work, fencing shall then be maintained for necessary integrity and effectiveness to ensure that CTS do not migrate back into the Project Area.
- 7.36. O&M Heavy Equipment Use.** During the O&M phase, should heavy equipment be needed to undergo a necessary repair the Condition of Approval Heavy Equipment shall be followed.
- 7.37. O&M Covered Activities CTS Injury.** If a CTS is injured as a result of conducting O&M Covered Activities, the Designated Biologist shall follow Condition of Approval CTS Injury for care and required notification.

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

To meet this requirement, the Permittee shall either purchase 196 acres of California tiger salamander upland habitat credits, 3 acres of California tiger salamander breeding habitat credits, and 3 acres of succulent owl's clover habitat credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval Covered Species Credits below OR shall provide for both the permanent protection and management of a minimum 199 acres, consisting of a minimum of 196 acres of California tiger salamander upland habitat, 3 acres of California tiger salamander breeding habitat, and 3 acres of succulent owl's clover habitat, of Habitat Management (HM) lands pursuant to Condition of Approval Habitat Management Lands Acquisition and Protection below and the calculation and deposit of the management funds pursuant to Condition of Approval Endowment Fund below. Purchase of Covered Species credits OR permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval Security below for all uncompleted obligations.

- 8.1. Cost Estimates.** For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands as follows:
- 8.1.1. Land acquisition costs for HM lands identified in Condition of Approval Habitat Management Lands Acquisition and Protection below, estimated at \$8,383.00/acre for 199 acres: **\$1,668,217.00**. Land acquisition costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;
 - 8.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Conditions of Approval Fee Title and Conservation Easement estimated at: **\$450,000.00**;
 - 8.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval Start-up Activities, estimated at: **\$143,504.87**;
 - 8.1.4. Interim management period funding as described in Condition of Approval Interim Management (Initial and Capital), estimated at: **\$47,423.31**;
 - 8.1.5. Long-term management funding as described in Condition of Approval Endowment Fund, estimated at \$4,127.07/acre for 199 acres: **\$821,287.55**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management;
 - 8.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval Reimburse CDFW, estimated at: **\$12,000.00**;
 - 8.1.7. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work **\$42,000.00**.
- 8.2. Covered Species Credits.** If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall purchase 196 acres of California tiger salamander upland habitat credits, 3 acres of California tiger salamander breeding habitat credits, and 3 acres of succulent owl's clover habitat credits from a CDFW-approved mitigation or conservation bank prior

to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval Security below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.

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

- 8.3.1. Fee Title. Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.
- 8.3.2. Conservation Easement. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.
- 8.3.3. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 8.3.4. HM Lands Documentation. Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please

contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

- 8.3.5. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.
- 8.3.6. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval; (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 8.3.7. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, vegetation and invasive species management, and Covered Species monitoring.

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

short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

- 8.4. Endowment Fund.** If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval Start-up Activities. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

- 8.4.1. Identify an Endowment Manager.** The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.

Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).

Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).

8.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.

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

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

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

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

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

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

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

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

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

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

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

9.1. Security Amount. The Security shall be in the amount of **\$3,184,432.73** or in the amount identified in the Condition of Approval Cost Estimates 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 Cost Estimates above, sufficient for CDFW or its contractors to complete land acquisition, property

enhancement, startup costs, initial management, long-term management, and monitoring.

- 9.2. Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 9.3. Security Timeline.** The Security shall be provided to CDFW before Covered Activities begin or within 60 days after the effective date of this ITP, whichever occurs first.
- 9.4. Security Holder.** The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 9.5. Security Transmittal.** Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.
- 9.6. Security Drawing.** The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 9.7. Security Release.** The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

For Credit Purchase

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

For Habitat Management Land Acquisition (HMLA)

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

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts

of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

IX. Amendment:

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

X. Stop-Work Order:

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

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

XI. Compliance with Other Laws:

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

XII. Notices:

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2021-094-04) in a cover letter and on any other associated documents.

Incidental Take Permit
No. 2081-2021-094-04
MADERA COUNTY
RIO MESA BOULEVARD PROJECT

Original cover with attachment(s) to:

Julie A. Vance, Regional Manager
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
R4CESA@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, California 94244-2090
CESA@wildlife.ca.gov

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

Stephanie Manzo
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 578-0409
Stephanie.Manzo@wildlife.ca.gov

XIII. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, Madera County Community and Economic Development (Madera County). (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Rio Mesa Boulevard Project Final Environmental Impact Report (SCH No.: 2017101048), dated May 2021, that the Madera County certified for Rio Mesa Boulevard on June 17, 2021. At the time the lead agency certified the EIR and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

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No. 2081-2021-094-04
MADERA COUNTY
RIO MESA BOULEVARD PROJECT

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, Rio Mesa Boulevard Project Final Environmental Impact Report, 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 199 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;

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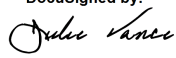
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

XV. Attachments:

FIGURE 1	Project Vicinity and Location
FIGURE 2	Site Plan
FIGURE 3	California Tiger Salamander Migration Culverts
FIGURE 4	CTS Habitat
FIGURE 5	Location of Succulent Owl's Clover Populations
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Declining
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

ON 7/3/2024

DocuSigned by:

 FA83F09FE08945A...
 Julie A. Vance, Regional Manager
 Central Region

Incidental Take Permit
 No. 2081-2021-094-04
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RIO MESA BOULEVARD PROJECT

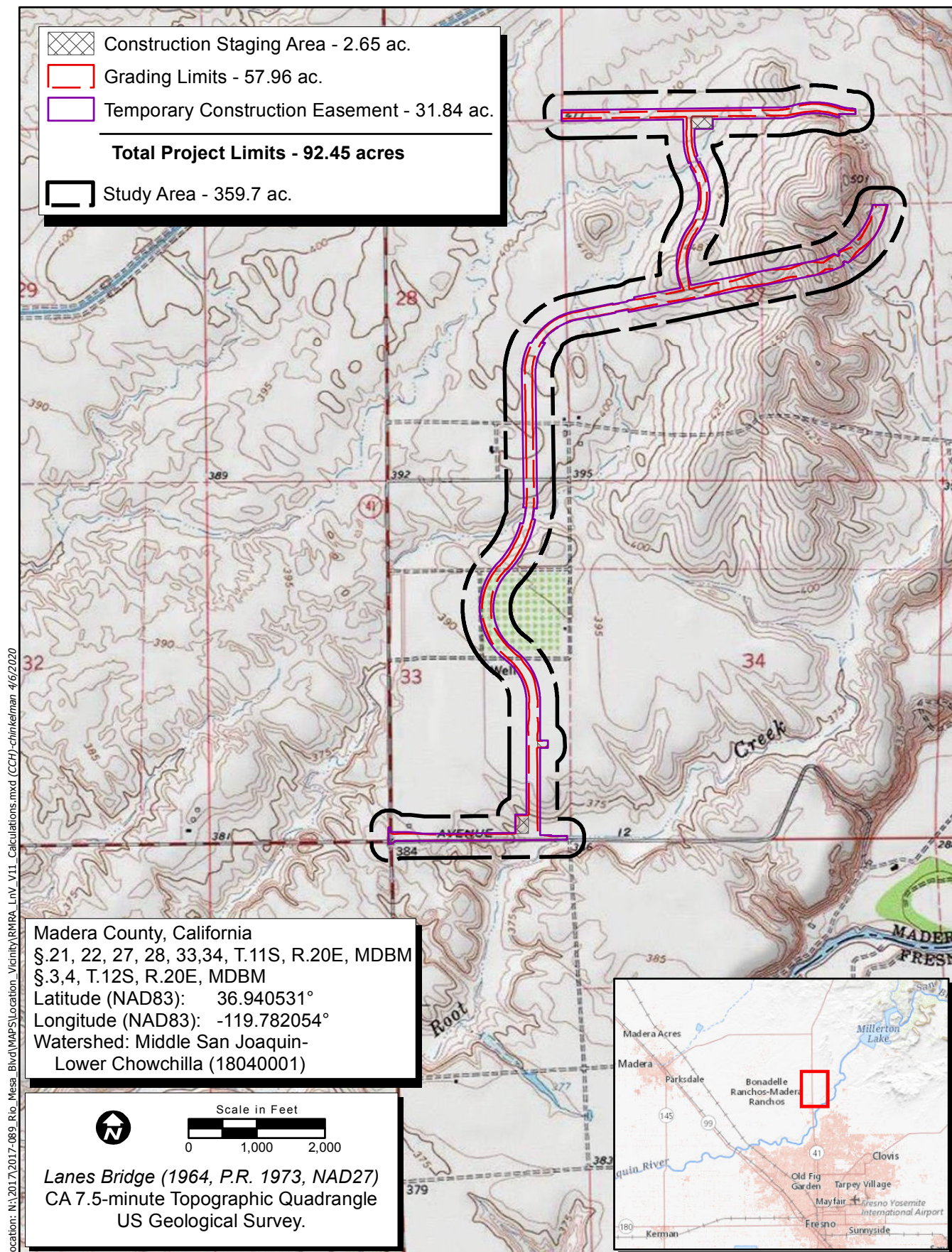


Figure 1. Project Vicinity and Location

2017-089 Rio Mesa Boulevard

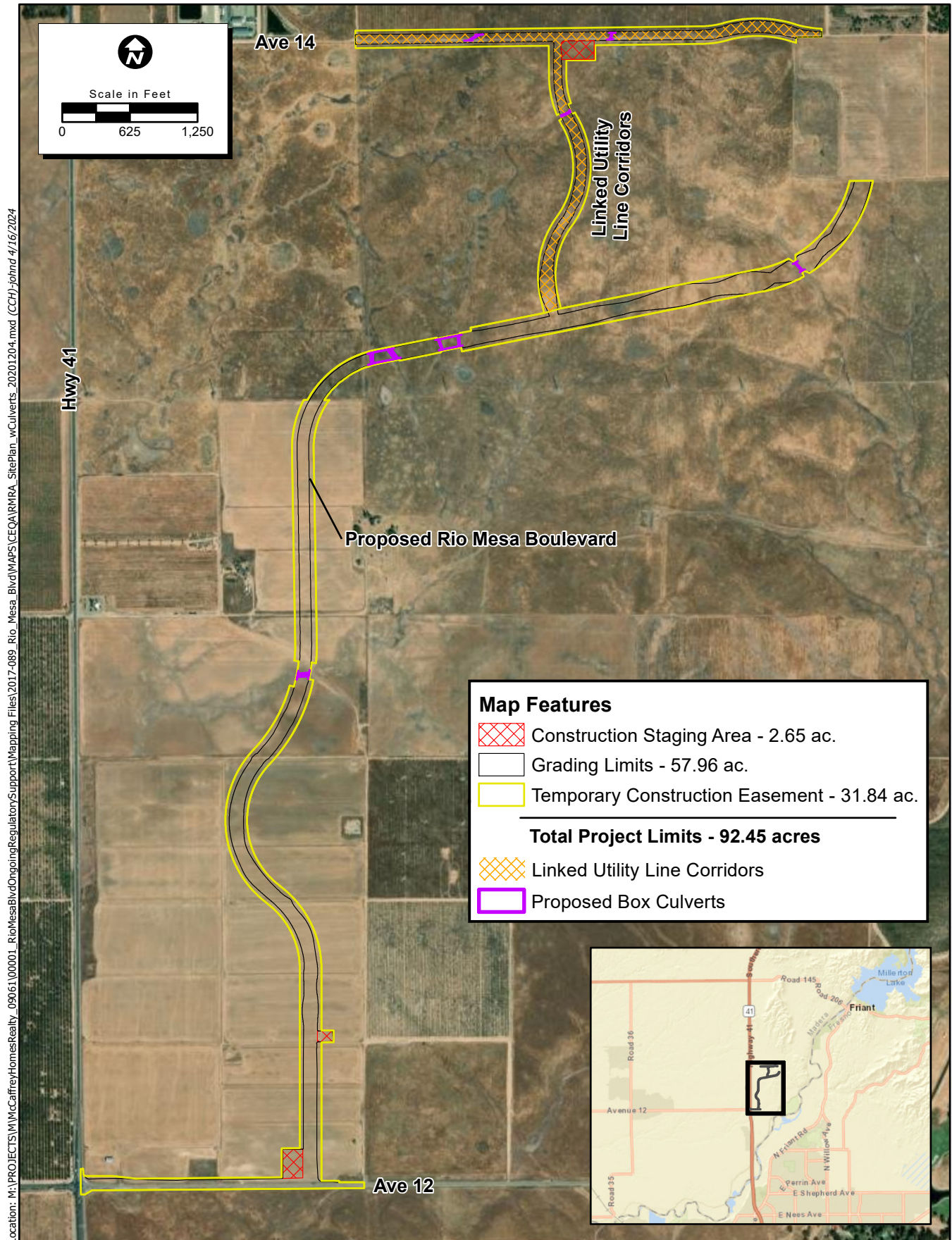


Figure 2. Site Plan

2017-089 Rio Mesa Boulevard Road Alignment

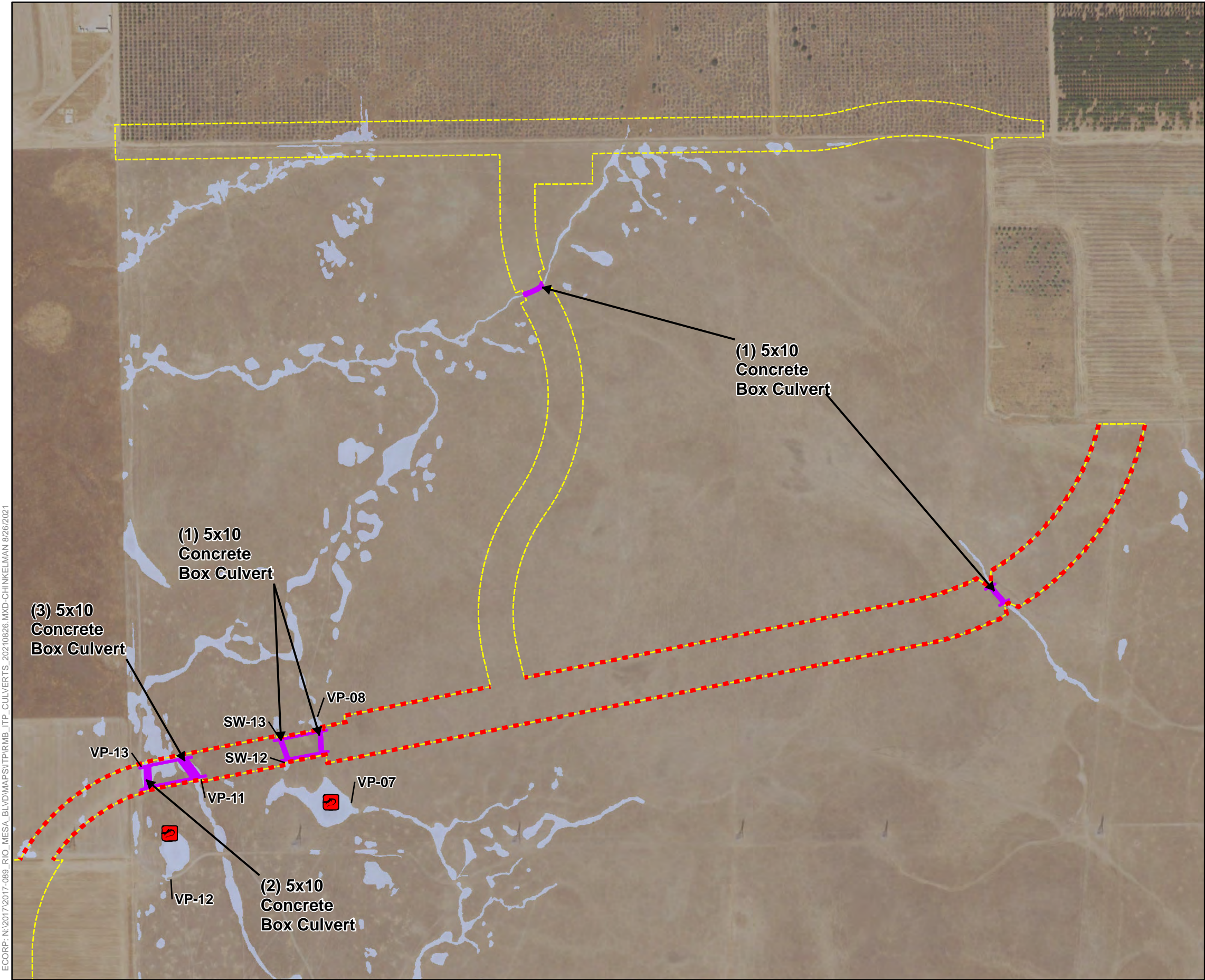
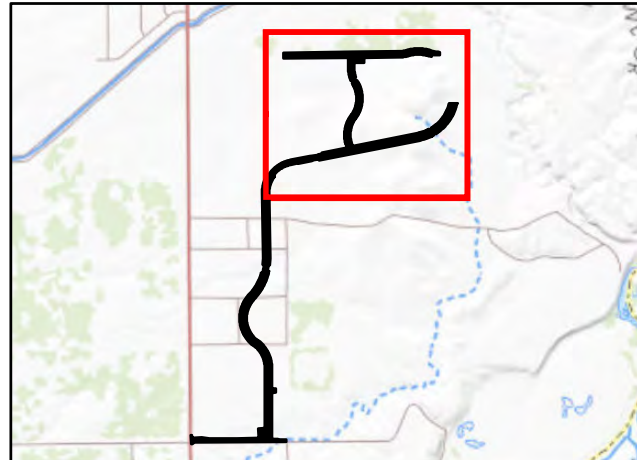


Figure 3. California Tiger Salamander Migration Culverts

- Map Features**
- Project Site
 - California Tiger Salamander Migration Culverts
 - Wetlands/Waters
 - California Tiger Salamander Curbs
 - California Tiger Salamander Found

Service Layer Credits: USGS Topo



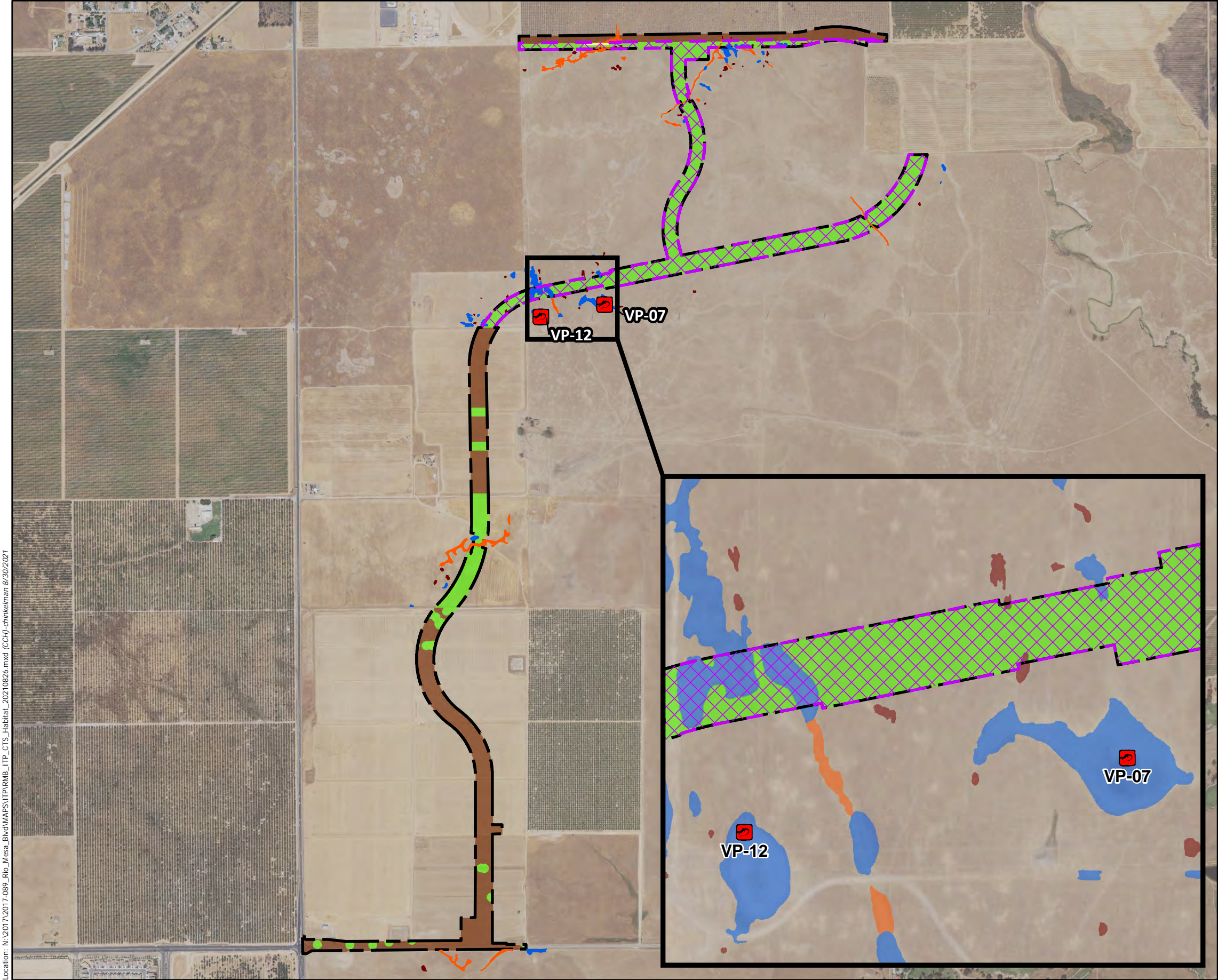


Figure 4.
CTS Habitat

- Map Features**
- Project Site
 - CTS Avoidance and Minimization Measures
- CTS Habitat Type**
- Upland Habitat - 49.9 acres
 - Not Habitat - 41.5 acres
- Aquatic Resources Delineation**
- Wetlands*
- Vernal Pool
 - Seasonal Wetland
 - Seasonal Wetland Swale
- Other Waters*
- Ditch
- CTS Occurrences**
- California Tiger Salamander Larvae

Location: N:\2017\2017-089_Rio_Mesa_Bvld\WAPS\ITP\RMB_ITP_CTS_Habitat_20210826.mxd (CCH)-chinkelman 8/30/2021



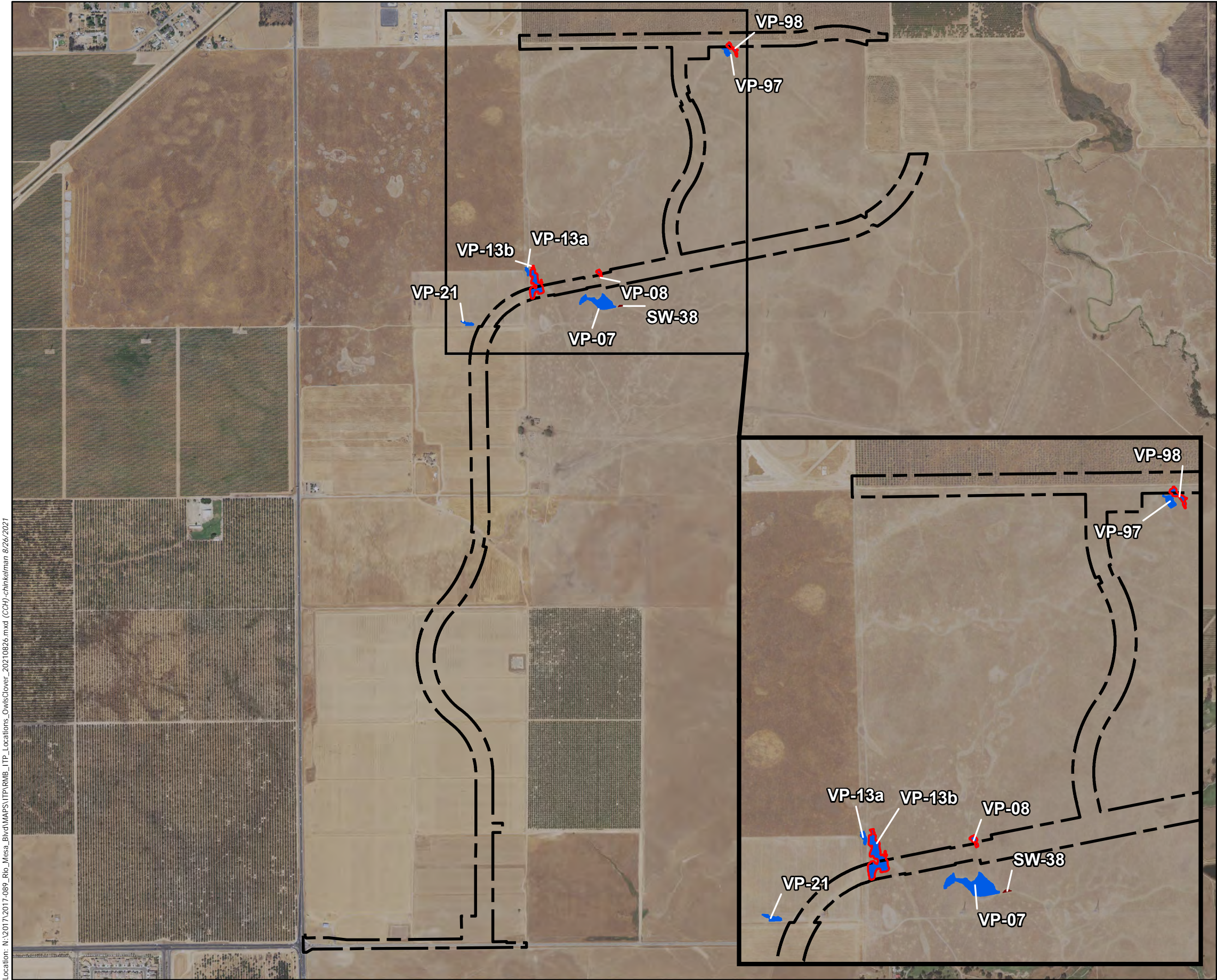


Figure 5 Locations of Succulent Owl's Clover Populations

Ma Feature

- Project Site
- Aquatic Resources Delineation
- Wetlands
 - Vernal Pool
 - Seasonal Wetland
- Pools with Succulent Owl's Clover
 - Direct impacts/Take (0.871 acre)

Succulent Owl's Clover Suffering Take in the Project Site		
Feature ID	Number of Individuals 2017/2019	Feature Acreage
VP-08	35/7	0.062
VP-13b	25	0.674
VP-98	7	0.135
	67 ¹	0.871

¹Sums the highest number of individuals observed.

Location: N:\2017\2017-089_Rio_Mesa_Bvld\MAPS\ITP\RMB_ITP_Locations_OwlsClover_20210826.mxd (CCH)-chinkelman 8/26/2021



Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2021-094-04

PERMITTEE: Madera County

PROJECT: Rio Mesa Boulevard 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
BEFORE DISTURBING SOIL OR VEGETATION					
1	<u>Designated Representative</u> . Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<u>Designated Biologist(s) and Designated Monitor(s)</u> . Permittee shall submit to CDFW in writing the name, qualifications, business address, contact information, and references with contact information of Designated Biologist(s) and Designated Monitor(s) using the Biologist Resume Example (Attachment 2) or another format containing the same information. This information shall be submitted for CDFW review and approval at least 30 days before starting Covered Activities. The Designated Biologist(s) and Designated Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of the Covered Species and to minimize disturbance of Covered Species' habitat. The Designated Monitor(s) shall assist the Designated Biologist(s) in compliance monitoring under direction/supervision of the Designated Biologist(s). Designated Monitor responsibilities will be restricted to a specific set of Conditions of Approval, specified by the Permittee or Designated Representative at the time their qualifications are submitted for review. Permittee shall ensure that the Designated Biologist(s) and Designated Monitor(s) are knowledgeable and experienced in the Covered Species' biology and natural history. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Designated Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Designated Monitor(s) must be changed.	ITP Condition # 5.2	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
3	<u>Education Program</u> . Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 5.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	<u>Trash Abatement</u> . Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 5.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
5	<u>Dust Control</u> . Permittee shall implement dust control measures during construction and O&M Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 5.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	<u>Delineation of Property Boundaries</u> . Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.	ITP Condition # 5.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	<u>Delineation of Habitat</u> . Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 5.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	<u>Notification Before Commencement</u> . The Designated Representative shall notify CDFW 14 calendar days before starting construction phase Covered Activities and O&M phase Covered Activities within the Project Area and shall provide CDFW with documentation of compliance with all applicable Project Conditions of Approval before starting any phase.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
9	<u>Geographic Information Systems Data Files</u> . At least 30 days prior to the start of construction phase(s) Covered Activities, the Permittee shall provide CDFW with separate Geographic Information Systems (GIS) data files for the temporary and permanent habitat impact areas authorized under the ITP for the Covered Species for the Covered Activities. If habitat for a Covered Species will be both temporarily and permanently impacted, the Permittee shall provide one set of GIS data files for each impact type. The Permittee shall provide any additional GIS data files for the Project or related Covered Species features within 30 days of CDFW's request. All GIS data files shall be provided in a format acceptable to CDFW. The Permittee shall also provide GIS data files for the temporary and permanent habitat impacts areas authorized under the ITP for the Covered Species for the completed Covered Activities as part of the Condition of Approval <u>Final Mitigation Report</u> .	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
10	<u>CTS Mortality Reduction and Relocation Plan</u> . The Designated Biologist shall prepare a CTS Mortality Reduction and Relocation Plan and submit it to CDFW for approval prior to the start of Construction Phase Covered Activities. The CTS Mortality Reduction and Relocation Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area which represents potential upland habitat; the area within 1.3 miles of known or potential breeding habitat for CTS; an identification of survey, capture, handling, and relocation methods; identification of relocation areas; specifications of the fencing which will be installed to exclude CTS from the Project Area (<u>CTS Exclusion Fencing</u>); details regarding the use of coverboards which will be employed accessory to the exclusion fencing; plans for timing of fence and coverboard usage and fence maintenance; and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the CTS Mortality Reduction and Relocation Plan is approved in writing by CDFW. Designated Monitors are prohibited from capturing and handling CTS unless approved in writing by CDFW and under the direct supervision of the Designated Biologist(s).	ITP Condition # 7.2	Before commencing ground- or vegetation-disturbing activities	Designated Biologist / Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
11	<u>Landscaping Plan</u> . Prior to implementation of Covered Activities, Permittee shall submit a Landscaping Plan to CDFW for review and approval. The Landscaping Plan shall include detailed specifications for all initial landscaping installation activities (including erosion control and slope stabilization activities), such as species composition of seed mixes, seed application or planting methods, plant palettes, planting substrates (e.g., weed free straw or mulch), description and specifications of landscaping materials and their sources, and location of landscaping activities. The Landscaping Plan shall: (1) include a list of species that will be used in landscaping; (2) limit landscaping to plant species that are non-invasive and not identified in the California Invasive Plant Council Inventory (https://www.cal-ipc.org/plants/inventory/); (3) describe herbicide/pesticide-free methods (e.g., hand-pulling, etc.) for weed management; and (4) confine landscaping activities (including tree replacement plantings) to within the Project Area. Because maintenance of landscaping is not a Covered Activity, the Landscaping Plan shall describe clear criteria for when initial landscaping is considered complete, along with a reporting requirement to CDFW to memorialize that initial landscaping has been completed. This reporting requirement can be an element of the <u>Quarterly Compliance Report</u> . The Landscaping Plan shall also include requirements for implementation of an open space buffer, in accordance with Condition of Approval <u>Open Space Buffer</u> below, in portions of the Project Area that border (1) any adjacent proposed Habitat Management Lands and (2) other adjacent intact SOC habitat, as determined by a Designated Biologist in consultation with CDFW.	ITP Condition # 7.23	Before commencing ground- or vegetation-disturbing activities	Permittee	
12	<u>Open Space Buffer</u> . Edge effects resulting from landscaping, landscaping management, and soil stabilization practices implemented within the Project Area have the potential to affect: (1) the adjacent proposed Habitat Management Lands; and (2) other areas adjacent to the Project Area which support potential SOC habitat. To prevent such edge effects, prior to initiation of Construction Phase Covered Activities the Permittee shall submit, as an element of the <u>Landscaping Plan</u> , a requirement for implementation of an open space buffer of suitable width. The open space buffer width and areas of implementation shall be clearly described within the <u>Landscaping Plan</u> . In addition, the following shall be prohibited within the open space buffer: (a) landscaping with plant species identified in the California Invasive Plant Council Inventory (https://www.cal-ipc.org/plants/inventory/); (b) use of stabilizing ground cover material (hydroseeding, coir netting and non-filament mesh, etc.); (c) use of pesticides/herbicides; (d) and use of non-manual methods of plant removal. The <u>Landscaping Plan</u> shall also clearly describe any activities planned within the open space buffer.	ITP Condition # 7.24	Before commencing ground- or vegetation-disturbing activities	Permittee	
13	<u>CTS Record of Observations and Handling</u> . All CTS captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the CTS; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDB as per Condition of Approval <u>CNDDB Observations</u> . This information shall also be included in <u>Quarterly Compliance Reports</u> and <u>ASRs</u> .	ITP Condition # 7.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	<u>CTS Pre-Activity Clearance Survey and Reporting</u> . No more than 14 days prior to any vegetation- or ground-disturbing activities at the Project Area, the Designated Biologist shall survey that part of the Project Area which represents potential habitat for CTS. These surveys shall provide 100 percent visual coverage of the potential habitat (including burrow and crevice openings) at the Project Area as well as a 50-foot buffer zone around the Project Area. If CTS individuals are found, the Designated Biologists(s) shall relocate them from the Project Area in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> . The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities within the Project Area.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities / Entire Project	Designated Biologist	
15	<u>Flag Burrows/Crevice</u> . During the <u>CTS Pre-Activity Clearance Surveys</u> , the Designated Biologist shall flag all animal burrows and crevices suitable for CTS occupancy within the Project Area. Flagged burrows/crevices which occur within 600 meters of known or potential breeding habitat and which cannot be avoided by at least 50 feet shall be fully excavated in accordance with Condition of Approval <u>Burrow and Crevice Excavation</u> below.	ITP Condition # 7.3	Before commencing ground- or vegetation-disturbing activities / Entire Project	Designated Biologist	
16	<u>Burrow and Crevice Excavation</u> . Prior to any Construction Phase vegetation- or ground-disturbing activities, those animal burrows and crevices identified during the <u>CTS Pre-Activity Clearance Surveys</u> and Condition of Approval <u>Flag Burrows/Crevice</u> within 600 meters of known or potential CTS breeding habitat as identified in the <u>CTS Mortality Reduction and Relocation Plan</u> , and which cannot be fully avoided by at least 50 feet and which fall directly in the Project Area, shall be fully excavated. Applicable burrows/crevices may be excavated by hand or in a manner otherwise approved by CDFW in accordance with the CDFW approved <u>CTS Mortality Reduction and Relocation Plan</u> . Burrow/crevice excavation shall occur under the direct supervision of the Designated Biologist(s). The Designated Biologist(s) shall relocate any live CTS discovered during burrow/crevice excavation in accordance with the <u>CTS Mortality Reduction and Relocation Plan</u> . Excavation shall occur no more than 14 days after the completion of the <u>CTS Pre-Activity Clearance Surveys</u> .	ITP Condition # 7.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Designated Biologist	
17	<u>CTS Exclusion Fencing</u> . After surveying, flagging, and excavating burrows and crevices in accordance with Conditions of Approval <u>CTS Pre-Activity Clearance Survey and Reporting</u> , <u>Flag Burrows/Crevice</u> , and <u>Burrow and Crevice Excavation</u> above, exclusion fencing (with cover boards) shall be installed to prevent individuals of the Covered Species from migrating into the cleared Project Area. The Covered Species exclusion fencing shall be installed in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> . The exclusion fence shall be installed no later than 48 hours after the burrow and crevice excavation/relocation work is completed. Permittee shall also avoid animal burrows and crevices outside but within 50 feet of the cleared Project Area to the maximum extent possible during the installation of the exclusion fencing if it involves shallow trenching or driving stakes.	ITP Condition # 7.5	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee / Designated Biologist	
18	<u>SOC Pre-Activity Clearance Surveys and Reporting</u> . Vernal pools, swales, or wetland habitat features and areas with Rocklin sandy loam, pumiceous variant soil type within the Project Area shall be surveyed by the Designated Biologist(s) prior to beginning Construction Phase Covered Activities. The surveys shall be floristic in nature, visually cover 100 percent of the entire vernal pool(s), swale(s), or wetland(s) habitat feature and a 50-foot buffer zone, and shall be timed appropriately to detect SOC. The Permittee shall provide the survey results to CDFW in a written report no more than 30 days prior to the beginning of Covered Activities.	ITP Condition # 7.17	Before commencing ground- or vegetation-disturbing activities / Entire Project	Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<u>Heavy equipment</u> . Heavy equipment used in implementation of Covered Activities shall be thoroughly washed and inspected prior to its use on site to prevent introduction of invasive, exotic plant material (seeds, etc.) from being introduced to the Project Area or adjacent habitats.	ITP Condition # 7.25	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
20	<p><u>Habitat Management Land Acquisition</u>. CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result 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 either purchase 196 acres of California tiger salamander upland habitat credits, 3 acres of California tiger salamander breeding habitat credits, and 3 acres of succulent owl's clover habitat credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval <u>Covered Species Credits</u> below OR shall provide for both the permanent protection and management of a minimum 199 acres, consisting of a minimum of 196 acres of California tiger salamander upland habitat, 3 acres of California tiger salamander breeding habitat, and 3 acres of succulent owl's clover habitat, of Habitat Management (HM) lands pursuant to Condition of Approval <u>Habitat Management Lands Acquisition and Protection</u> below and the calculation and deposit of the management funds pursuant to Condition of Approval <u>Endowment Fund</u> below. Purchase of Covered Species credits OR permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of the ITP if Security is provided pursuant to Condition of Approval <u>Security</u> below for all uncompleted obligations.</p>	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
21	<p><u>Cost Estimates.</u> For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands as follows:</p> <p>8.1.1. Land acquisition costs for HM lands identified in Condition of Approval <u>Habitat Management Lands Acquisition</u> and Protection below, estimated at \$8,383.00/acre for 199 acres: \$1,668,217.00. Land acquisition costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;</p> <p>8.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Conditions of Approval <u>Fee Title</u> and <u>Conservation Easement</u> estimated at: \$450,000.00;</p> <p>8.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval <u>Start-up Activities</u>, estimated at: \$143,504.87;</p> <p>8.1.4. Interim management period funding as described in Condition of Approval <u>Interim Management (Initial and Capital)</u>, estimated at: \$47,423.31;</p> <p>8.1.5. Long-term management funding as described in Condition of Approval <u>Endowment Fund</u>, estimated at \$4,127.07/acre for 199 acres: \$821,287.55. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management;</p> <p>8.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval <u>Reimburse CDFW</u>, estimated at: \$12,000.00;</p> <p>8.1.7. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work \$42,000.00.</p>	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
22	<p><u>Covered Species Credits.</u> If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall purchase 196 acres of California tiger salamander upland habitat credits, 3 acres of California tiger salamander breeding habitat credits, and 3 acres of succulent owl's clover habitat credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of the ITP if Security is provided pursuant to Condition of Approval <u>Security</u> below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 18 months from issuance of the ITP if Security is provided.</p>	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	<u>Habitat Management Lands Acquisition and Protection</u> . If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall:	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
24	<u>Fee Title</u> . Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.	ITP Conditions # 8.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
25	<u>Conservation Easement</u> . If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.	ITP Conditions # 8.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
26	<u>HM Lands Approval</u> . Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species.	ITP Condition # 8.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
27	<u>HM Lands Documentation</u> . Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.	ITP Condition # 8.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	<u>Land Manager</u> . Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.	ITP Condition # 8.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
29	<u>Start-up Activities</u> . 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.	ITP Condition # 8.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
30	<u>Interim Management (Initial and Capital)</u> . Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, vegetation and invasive species management, and Covered Species monitoring. Permittee shall either (1) provide Security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition # 8.3.7	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	<p><u>Endowment Fund</u>. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the ITP, the conservation easement, and the management plan required by Condition of Approval <u>Start-up Activities</u>. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
32	<p><u>Identify an Endowment Manager</u>. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.</p> <p>Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).</p> <p>Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).</p>	ITP Condition # 8.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
33	<u>Calculate the Endowment Funds Deposit.</u> After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.	ITP Condition # 8.4.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
34	<u>Capitalization Rate and Fees.</u> Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.	ITP Condition # 8.4.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
35	<p><u>Endowment Buffers/Assumptions.</u> Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <p>8.4.2.2.1. <u>10 Percent Contingency.</u> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</p> <p>8.4.2.2.2. <u>Three Years Delayed Spending.</u> The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>8.4.2.2.3. <u>Non-annualized Expenses.</u> For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.</p>	ITP Condition # 8.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
36	<u>Transfer Long-term Endowment Funds.</u> Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.	ITP Condition # 8.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
37	<p><u>Management of the Endowment.</u> The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.</p> <p>Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.</p>	ITP Condition # 8.4.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
38	<p><u>Reimburse CDFW.</u> Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of the ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.</p>	ITP Condition # 8.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
39	<p><u>Security</u>: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval <u>Habitat Management Land Acquisition</u> that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>9.1. <u>Security Amount</u>. The Security shall be in the amount of \$3,184,432.73 or in the amount identified in the Condition of Approval <u>Cost Estimates</u> 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 <u>Cost Estimates</u> above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.</p> <p>9.2. <u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>9.3. <u>Security Timeline</u>. The Security shall be provided to CDFW before Covered Activities begin or within 60 days after the effective date of the ITP, whichever occurs first.</p> <p>9.4. <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>9.5. <u>Security Transmittal</u>. Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.</p> <p>9.6. <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 the ITP.</p> <p>9.7. <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> <p>For Credit Purchase</p> <ul style="list-style-type: none"> • Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits; and • Timely submission of all required reports. <p>For Habitat Management Land Acquisition (HMLA)</p> <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of the ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
40	<u>Designated Biologist Authority.</u> To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall immediately stop any activity that does not comply with the ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of the ITP.	ITP Condition # 5.3	Entire Project	Designated Biologist / Permittee	
41	<u>Construction Monitoring Documentation.</u> The Designated Biologist(s) and Designated Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction phases, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project Area upon request by CDFW.	ITP Condition # 5.5	Entire Project	Designated Biologist / Permittee	
42	<u>Lapse in Continuity of Covered Activities.</u> Should an unplanned or planned lapse of construction or O&M phase Covered Activities occur at any work area for more than 30 calendar days, Condition of Approval <u>Notification Before Commencement</u> shall be followed.	ITP Condition # 6.2	Entire Project	Permittee	
43	<u>Compliance Monitoring.</u> The Designated Biologist shall be on-site daily when construction phase Covered Activities occur, or ground disturbing O&M phase Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading 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 the 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, survey results, and monitoring activities required by the ITP.	ITP Condition # 6.5	Entire Project	Designated Biologist / Permittee	
44	<u>Notification of Non-compliance.</u> The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with the ITP and suggested measures to remedy the situation.	ITP Condition # 6.3	Entire Project	Designated Representative / Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
45	<u>Quarterly Compliance Report (Construction Phases and O&M Phase)</u> . The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval <u>Compliance Monitoring</u> into a Quarterly Compliance Report during the construction phases and O&M phase and submit it to CDFW along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Representative is Stephanie Manzo (stephanie.manzo@wildlife.ca.gov), the CDFW Regional Office e-mail is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 6.6	Entire Project	Designated Representative / Designated Biologist / Permittee	
46	<u>Annual Status Report (Construction Phases and O&M Phase)</u> . Permittee shall provide CDFW with an Annual Status Report (ASR) during the construction phases and O&M phase no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval <u>Quarterly Compliance Report</u> ; (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 this MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance during the Construction Phase, both for the prior calendar year, and a total since ITP issuance; (7) beginning and ending dates of any O&M activities undertaken during the reporting period; (8) summary of the type and location on a map of O&M activities during all previous reporting periods; and (7) information about other Project impacts on Covered Species.	ITP Condition # 6.7	Entire Project	Permittee	
47	<u>CNDDDB Observations</u> . The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next <u>Quarterly Compliance Report</u> or <u>ASR</u> , whichever is submitted first relative to the observation.	ITP Condition # 6.8	Entire Project	Designated Biologist	
48	<u>Notification of Take or Injury/Damage</u> . Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured/damaged by a Project-related activity, or if a Covered Species is otherwise found dead or injured/damaged within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by emailing the Regional Office at R4CESA@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, and number of animals/plants taken or injured/damaged 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/plant or carcass, and if possible, provide a photograph, explanation as to cause of take or injury/damage, and any other pertinent information.	ITP Condition # 6.10	Entire Project	Permittee / Designated Biologist / Designated Representative	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
49	<u>Erosion Control Materials</u> . 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 # 5.8	Entire Project	Permittee	
50	<u>Project Access</u> . Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour (mph) to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 5.11	Entire Project	Permittee	
51	<u>Staging Areas</u> . Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval <u>Project Access</u> of the ITP.	ITP Condition # 5.12	Entire Project	Permittee	
52	<u>Hazardous Waste</u> . Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 5.13	Entire Project	Permittee	
53	<u>Dry Season Work. Construction Phase</u> ground-disturbing activities within or immediately adjacent (within 250 feet) to potential CTS breeding habitat shall not occur until the pools are dry unless surveys are conducted to demonstrate the absence of CTS eggs and larvae in these pools.	ITP Condition # 7.7	Entire Project	Designated Biologist / Permittee	
54	<u>Fieldwork Code of Practice</u> . To ensure that disease is not conveyed between CTS habitats by the Designated Biologist(s) or Designated Monitor(s), the Fieldwork Code of Practice developed by the Declining Amphibian Populations Task Force (see Attachment 3) shall be followed at all times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 7.8	Entire Project	Designated Biologist	
55	<u>Rain Forecast</u> . The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 50 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Construction Phase Covered Activities in all Project Areas where initial ground or vegetation disturbance has yet to occur until no further rain is forecast. Work may continue 24 hours after the rain ceases and there is no precipitation in the 72-hour forecast. Project Areas that have already been previously disturbed with all applicable Conditions of Approvals implemented and are surrounded by <u>CTS Exclusion Fencing</u> may continue Covered Activities during rainfall events.	ITP Condition # 7.9	Entire Project	Designated Biologist / Permittee	
56	<u>Night Work</u> . Permittee shall strictly prohibit any Construction Phase work between sunset and sunrise when a 70 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until zero percent chance of rain is forecast. Covered Activities may occur between sunset and sunrise within Project Areas where all applicable Conditions of Approval have been implemented and enclosed with <u>CTS Exclusion Fencing</u> .	ITP Condition # 7.10	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
57	<u>CTS Injury</u> . If a CTS 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 CTS. The Permittee shall notify CDFW of the injury to the CTS immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval <u>Notification of Take or Injury/Damage</u> . Notification shall include the name of the facility where the animal was taken.	ITP Condition # 7.11	Entire Project	Designated Biologist / Permittee	
58	<u>Open Excavations</u> . The Designated Biologist(s) shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day (including weekends and any other non-workdays) for trapped CTS. To prevent inadvertent entrapment of CTS, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the worker(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier potentially allowing CTS to enter and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. Worker(s) shall thoroughly inspect all trenches, holes, sumps, or other excavations for CTS (or other wildlife) before they are back-filled. If any worker discovers that CTS have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Project workers and the Designated Biologist(s) shall allow CTS to escape unimpeded, if possible, before Covered Activities are allowed to continue, or the Designated Biologist(s) may capture and relocate CTS in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> .	ITP Condition # 7.12	Entire Project	Designated Biologist / Permittee	
59	<u>Vehicle and Equipment Inspection</u> . Within the Project Area, workers shall inspect under vehicles and equipment for CTS before the vehicles and equipment are moved. If a CTS is present, the worker shall notify the Designated Biologist(s) and wait for the CTS to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move the CTS out of harm's way outside of the Project Area in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> .	ITP Condition # 7.13	Entire Project	Permittee	
60	<u>Pipes and other Structures Entrapment Prevention</u> . Permittee shall ensure that all pipes, hoses, conduit, culverts, or similar materials stockpiled or installed in the Project Area are capped or otherwise enclosed at the ends to prevent entry by CTS. Workers shall thoroughly inspect all construction pipe, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the CTS before the object is subsequently moved, buried, or capped. If a CTS is discovered inside a pipe, culvert, or similar structure during inspection, the worker shall notify the Designated Biologist(s) and wait for the CTS to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move the CTS out of harm's way outside of the Project Area in accordance with the CDFW-approved <u>CTS Species Mortality Reduction and Relocation Plan</u> .	ITP Condition # 7.14	Entire Project	Permittee	
61	<u>Stockpiled Fill Inspection</u> . The Designated Biologist(s) shall thoroughly inspect all stockpiled fill for burrows/crevices potentially occupied by CTS before the fill is subsequently moved. If during inspection, burrows/crevices are observed the Designated Biologist(s) will excavate the burrows/crevices per the Condition of Approval <u>Burrow/Crevise Excavation</u> and in accordance with the approved <u>CTS Mortality Reduction and Relocation Plan</u> .	ITP Condition # 7.15	Entire Project	Designated Biologist / Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
62	<u>Curbs, Berms, and/or Dikes.</u> Permittee shall not construct roadways with steep curbs, berms, or dikes, which prevent CTS from exiting the roadway. If curbs are necessary for safety and/or surface runoff, Permittee shall design them to allow CTS to walk over them. Caltrans' Standard Plan Type E curbs and Type D and Type E dikes are preferred designs and shall be used where possible (refer to The Caltrans' Standard Plan A87, Curbs, Dikes, and Driveways). These rounded or gently sloping structures allow CTS to crawl over them. If steep dikes are required, design shall include over-side drains or curb/dike breaks spaced at intervals of 25 feet to allow CTS passage.	ITP Condition #7.16	Entire Project	Permittee	
63	<u>SOC Avoidance Buffer and Fencing.</u> All SOC that would not be directly impacted by ground-disturbing activities shall be avoided by a minimum of 50 feet. Sturdy, highly visible, orange plastic construction avoidance fencing shall be installed around SOC avoidance areas and located in accordance with direction from the Designated Biologist(s). Fencing shall be permeable (e.g., safety fencing) to encourage natural sand accretion and deposition patterns. Fencing shall be securely staked and installed in a durable manner that would be reasonably expected to withstand wind and weather events and last at least through the Construction Phase. During construction phases, fencing shall be inspected at least biweekly, even during periods of inactivity, and maintained and/or replaced as necessary to prevent creation and spread of fencing-related litter. Fencing shall be removed upon completion of construction Covered Activities in the discrete area containing the fencing. The Permittee may request a buffer reduction and shall include the distance of the reduced buffer and an analysis of potential risks to SOC, including but not limited to, potential risks from erosion, changes in hydrology, and risks from any possible dust or chemical drift. The buffer reduction shall not be implemented without advance written approval by CDFW.	ITP Condition # 7.18	Entire Project	Designated Biologist / Permittee	
64	<u>Herbicide Use.</u> Permittee shall prohibit the use and/or application of herbicides/pesticides within the Project Area without written permission from CDFW. Permittee shall ensure that all herbicide/pesticide use (mixing, application, and clean-up) is done by a licensed applicator in accordance with all applicable State, federal, and local regulations. Permittee shall only apply herbicide/pesticide sprays via ground application when wind speeds measure less than 3 mph. Permittee shall ensure that great care is taken to avoid herbicide/pesticide contact with any native vegetation and all herbicide sprays utilized within and adjacent to identified habitat features suitable for Covered Species contain a dye (registered for aquatic use by the California Department of Pesticide Regulation, if warranted) to prevent overspray.	ITP Condition # 7.19	Entire Project	Permittee	
65	<u>Avoid Introduction of Herbicides/Pesticides into Waters.</u> Permittee shall ensure herbicide/pesticides mixing sites are only located in areas devoid of vegetation, and where there is no potential of a spill reaching a vegetated area, stream, vernal pool or wetland. Permittee shall ensure that any herbicide/pesticide used where there is the possibility that the herbicide could come into direct contact with water is approved for use in an aquatic environment.	ITP Condition # 7.20	Entire Project	Permittee	
66	<u>Vegetation Removal.</u> In areas where mechanical vegetation removal will take place, vegetation shall not be broadcast, otherwise distributed, or left in place to cover undeveloped native soil within or adjacent to the Project Area. Permittee shall require any chipped material be chipped directly into a containment vessel (e.g., chip truck) during removal activities, hauled off site, and properly disposed of following removal activities. No chipped material shall be broadcast or otherwise used as mulch or ground cover within the Project Area or adjacent to it. Permittee shall prohibit use of masticators or other mechanical vegetation removal equipment that broadcasts woody debris or otherwise covers undeveloped native soil within or adjacent to the Project Area.	ITP Condition # 7.21	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
67	<u>Invasive Exotic Plant Species Removal.</u> All invasive exotic plant species, identified in the California Invasive Plant Council Inventory (https://www.cal-ipc.org/plants/inventory/), that are disturbed by the Project shall be removed from the Project Area. Invasive exotic plant species shall be bagged and appropriately disposed of in a manner that avoids the risk of introduction or spreading of exotic species in or around the Project Area. Exotic species shall not be used in mulching, composting, or otherwise placed in or around the Project Area. Permittee shall not stockpile cut invasive plant material within the Project Area at any time.	ITP Condition # 7.22	Entire Project	Permittee	
68	<u>O&M Covered Activities Requirement.</u> Permittee shall implement all <u>General Provisions</u> and <u>Monitoring, Notification and Reporting Provisions</u> of the ITP for all O&M phase Covered Activities as applicable.	ITP Condition # 7.26	Entire Project	Permittee	
69	<u>O&M Covered Activities Designated Biologist On-site.</u> The CDFW-approved Designated Biologist(s) and/or Designated Monitor(s) shall be on-site during all ground disturbing activities as applicable by Condition of Approval <u>Designated Biologist(s) and Designated Monitor(s)</u> . Should burrow or crevices suitable for CTS occupancy be observed during O&M Covered Activities, burrows/crevices shall be excavated as described in the Condition of Approval <u>Burrow and Crevice Excavation</u> .	ITP Condition # 7.27	Entire Project	Designated Biologist / Permittee	
70	<u>O&M Covered Activities Work Hours.</u> Permittee shall confine any O&M Covered Activities to daylight hours (sunrise to sunset) or as otherwise allowed in the Condition of Approval <u>Night Work</u> .	ITP Condition # 7.28	Entire Project	Permittee	
71	<u>O&M Covered Activities Vehicle Parking.</u> During all O&M Covered Activities or species-specific take minimization measures, Permittee shall not allow vehicles to park on top of animal burrows or crevices potentially occupied by CTS. Vehicles left overnight shall not be located within 50 feet of animal burrows or crevices potentially occupied by CTS.	ITP Condition # 7.29	Entire Project	Permittee	
72	<u>O&M Phase Vehicle and Equipment Inspection.</u> During all O&M Covered Activities, workers shall inspect for CTS under vehicles and equipment every time the vehicles and/or equipment are moved. If a CTS is present, the worker shall contact the Designated Biologist(s) and wait for the CTS to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) may move the CTS out of harm's way outside of the Project Area in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> .	ITP Condition # 7.30	Entire Project	Permittee	
73	<u>O&M Covered Activities Pipes and Materials Inspection.</u> Permittee shall ensure that all pipes or similar materials stockpiled or staged in the Project Area be capped or otherwise enclosed at the ends to prevent entry by CTS. Permittee shall not leave any permanent pipes or similar materials or structures open where CTS may enter them and become trapped. The Designated Biologist shall thoroughly inspect all such materials for CTS before they are moved, buried, or capped. If a CTS is discovered inside such material, that section of material shall not be moved until the animal has escaped of its own accord. Alternatively, the Designated Biologist(s) may move the CTS out of harm's way outside of the Project Area in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> .	ITP Condition # 7.31	Entire Project	Permittee / Designated Biologist	
74	<u>O&M Covered Activities Covered Species Observations.</u> During all O&M Covered Activities, all workers shall inform the Designated Biologist(s) if a CTS is observed within or near the Project Area. All work in the vicinity of the CTS, which could injure or kill the animal, shall cease immediately until the CTS moves from the Project Area of its own accord or is relocated by the Designated Biologist(s) in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> .	ITP Condition # 7.32	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
75	<u>O&M Herbicide/Pesticide Use</u> . During the O&M phase, Conditions of Approval <u>Herbicide</u> and <u>Avoid Introduction of Herbicides/Pesticides into Waters</u> shall be followed.	ITP Condition # 7.33	Entire Project	Permittee	
76	<u>O&M Vegetation Maintenance</u> . During the O&M phase, Conditions of Approval <u>Vegetation Removal</u> and <u>Invasive Exotic Plant Species Removal</u> shall be followed.	ITP Condition # 7.34	Entire Project	Permittee	
77	<u>O&M CTS Exclusion Fencing Maintenance</u> . During the O&M phase should <u>CTS Exclusion Fencing</u> remain in place for the allowances provided by Conditions of Approval <u>Rain Forecast</u> and <u>Night Work</u> , fencing shall then be maintained for necessary integrity and effectiveness to ensure that CTS do not migrate back into the Project Area.	ITP Condition # 7.35	Entire Project	Permittee	
78	<u>O&M Heavy Equipment Use</u> . During the O&M phase, should heavy equipment be needed to undergo a necessary repair the Condition of Approval <u>Heavy Equipment</u> shall be followed.	ITP Condition # 7.36	Entire Project	Permittee	
79	<u>O&M Covered Activities CTS Injury</u> . If a CTS is injured as a result of conducting O&M Covered Activities, the Designated Biologist shall follow Condition of Approval <u>CTS Injury</u> for care and required notification.	ITP Condition # 7.37	Entire Project	Designated Biologist / Permittee	
80	<u>CDFW Access</u> . 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 the ITP.	ITP Condition # 5.14	Entire Project	Permittee	
POST-CONSTRUCTION					
81	<u>Refuse Removal</u> . Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 5.15	Post-construction	Permittee	
82	<u>Final Mitigation Report</u> . 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 <u>Quarterly Compliance Reports</u> and all <u>ASRs</u> ; (2) a copy of the table in this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project related incidental take of Covered Species; (4) information about other Project impacts on Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on Covered Species; and (8) any other pertinent information.	ITP Condition # 6.9	Post-construction and after completion of mitigation	Permittee	
83	CDFW accepts the Final Mitigation Report as complete.	ITP Condition # 6.9	Post-construction	CDFW	

Attachment 2

***** Please Note: While use of this form is not mandatory, CDFW strongly recommends completing this form as it will ensure the receipt of adequate information and expedite CDFW review of biologist's qualifications. *****

Name of Biologist & Contact Information

Education: (include year graduated)

Training/Workshops: (be prepared to provide copies of certificates upon request; these should be related to the Covered Species (or similar species) in the Incidental Take Permit)

Certifications: (please provide any copies of a CDFW Scientific Collecting Permit, MOU, or USFWS 10(a)(1)(A)) permit; these should be related to the Covered Species (or similar species) in the Incidental Take Permit)

Species Name #1: (Example: California Tiger Salamander)

Project Name #1 (list the information below for all projects (separately) where biologist worked with this species; projects may be listed more than once under each separate species and please only include projects on the resume that demonstrate experience with the Covered Species (or similar species) in the ITP)

Location:

Project date completed: To and from date (month and year)

Incidental Take Permit (ITP) # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #2

Location:

Project date completed: To and from date

Incidental Take Permit # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #3 ...

Species Name #2: (Example: Similar or related species to CTS)

Project Name #1 (list the information below for all projects (separately) where the biologist worked with this species)

Location:

Project date completed: To and from date

Incidental Take Permit # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #2

Location:

Project date completed: To and from date

Incidental Take Permit # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows excavated:

Project Name #3 ...

Include any other relevant information to the Covered Species or implementation of Conditions of Approval in the ITP

Attachment 3

The Declining Amphibian Task Force Fieldwork Code of Practice

A code of practice, prepared by the Declining Amphibian Task Force (DAPTF) to provide guidelines for use by anyone conducting field work at amphibian breeding sites or in other aquatic habitats. Observations of diseased and parasite-infected amphibians are now being frequently reported from sites all over the world. This has given rise to concerns that releasing amphibians following a period of captivity, during which time they can pick up unapparent infections of novel disease agents, may cause an increased risk of mortality in wild populations. Amphibian pathogens and parasites can also be carried in a variety of ways between habitats on the hands, footwear, or equipment of fieldworkers, which can spread them to novel localities containing species which have had little or no prior contact with such pathogens or parasites. Such occurrences may be implicated in some instances where amphibian populations have declined. Therefore, it is vitally important for those involved in amphibian research (and other wetland/pond studies including those on fish, invertebrates and plants) to take steps to minimize the spread of disease and parasites between study sites.

1. Remove mud, snails, algae, and other debris from nets, traps, boots, vehicle tires and all other surfaces. Rinse cleaned items with sterilized (e.g. boiled or treated) water before leaving each study site.
2. Boots, nets, traps, etc., should then be scrubbed with 70% ethanol solution (or sodium hypochlorite 3 to 6%) and rinsed clean with sterilized water between study sites. Avoid cleaning equipment in the immediate vicinity of a pond or wetland.
3. In remote locations, clean all equipment as described above upon return to the lab or "base camp". Elsewhere, when washing machine facilities are available, remove nets from poles and wash with bleach on a "delicates" cycle, contained in a protective mesh laundry bag.
4. When working at sites with known or suspected disease problems, or when sampling populations of rare or isolates species, wear disposable gloves and change them between handling each animal. Dedicate sets of nets, boots, traps, and other equipment to each site being visited. Clean and store them separately and the end of each field day.
5. When amphibians are collected, ensure the separation of animals from different sites and take great care to avoid indirect contact between them (e.g. via handling, reuse of containers) or with other captive animals. Isolation from un-sterilized plants or soils which have been taken from other sites is also essential. Always use disinfected/disposable husbandry equipment.
6. Examine collected amphibians for the presence of diseases and parasites soon after capture. Prior to their release or the release of any progeny, amphibians should be quarantined for a period and thoroughly screened for the presence of any potential disease agents.
7. Used cleaning materials (liquids, etc.) should be disposed of safely and if necessary taken back to the lab for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.

Attachment 4

[Financial institution letterhead]

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

Issue Date: **[date]**

Beneficiary:

California Department of Fish and Wildlife
Habitat Conservation Planning Branch
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.

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

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

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

Project Tracking Number

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

Check information:

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

a. Endowment: for Long-Term Management Subtotal \$ _____

b. Habitat Enhancement Subtotal \$ _____

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ _____

2. Letter of Credit Subtotal \$ _____

1. Financial Institution: _____

2. Letter of Credit Number: _____

3. Date of Expiration: _____

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

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