



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

California Endangered Species Act
Incidental Take Permit No. 2081-2022-086-04

**EC GROW, LLC. – CANNABIS CULTIVATION AND PROCESSING
PROJECT**

I. Authority:

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

Permittee:	Eric Charles, EC Grow, LLC.
Principal Officer:	Eric Charles
Contact Person:	Eric Charles, 559-747-4787 exharleshome@gmail.com
Mailing Address:	803 East Sunnyside Avenue Visalia, California 93292

II. Effective Date and Expiration Date of this ITP:

This ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **December 31, 2035**.

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 5.9 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 EC Grow Cannabis Cultivation and Processing (Project) is located at 2675 Cuyama Highway, New Cuyama, California, 93461; San Luis Obispo County; Township 10 North, Range 24 West, Section 19, United States Geological Survey (USGS) 7.5-Minute Quadrangle Map Ballinger Canyon (See Figure 1). The Project is located approximately 11.5 miles east of the City of New Cuyama, and south of and adjacent to California State Route 166, at approximately 34.934911° latitude and -119.476770° longitude. The Project site is located in the Cuyama Valley and is bounded by the Caliente Range to the north and the Sierra Madre Mountains to the south.

IV. Project Description:

The Project includes activities related to the development (construction) of 8.90 acres for use in the cultivation, manufacturing, and distribution of cannabis. Project activities include those related to the ongoing operation and maintenance (O&M) of the facilities required to cultivate, manufacture, and distribute cannabis.

Construction

Phase 1

Project activities for Phase 1 include the demolition of an existing 2,500 square foot residential building and a 675-square foot woodshed. Approximately 4.17 acres will be cleared, grubbed, and graded to accommodate the construction of 3.51 acres of outdoor cultivation space, 0.51 acre of hoop houses; and 0.15 acre to accommodate the installation of ancillary facilities including portable restrooms, a storage shed, compost area, water storage tanks, and non-compostable waste and recycling dumpsters. In addition, 0.18 acre of trenching will occur to accommodate the installation of utilities and 1,546-linear feet of security fencing.

Phase 2

Project activities for Phase 2 will include the clearing, grubbing, and grading of 1.87 acres to accommodate the construction of a 15,000-square foot barn-like structure; 1.17 acres (2,238 linear feet) of road improvements to create a 20-foot wide all-weather access road with two-foot shoulders; 0.07 acre of ancillary facilities including parking spaces, waste disposal system, and water storage tanks; and the installation of 660-feet of security fencing.

Phase 3

Project activities for Phase 3 will include clearing, grubbing, and grading of 1.50 acres to accommodate the construction of 1.14 acres of indoor greenhouses, and 0.04 acre of ancillary facilities including water storage tanks and security equipment.

Operation and Maintenance

Upon completion of construction the following activities will occur on an on-going basis to support year-round facility operations and maintenance:

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- Cannabis Cultivation and Harvesting: Cannabis cultivation will occur indoors and outdoors. Outdoor cultivation plants will be planted above ground in grow bags at three outdoor cultivation areas. The outdoor cultivation will produce one harvest per year in October or November and will require additional temporary staff during the harvest months. The indoor cultivation plants will be in pots on top of raised benches within the greenhouses. Indoor cultivation will yield a harvest every two to four months. Additional staff will not be required for indoor cultivation. Harvesting will last two to three weeks.
- Cannabis Processing: Cannabis plants will be cut and taken to the ancillary processing area, within the barn-like metal structure, where plant material will be dried, cured, trimmed, packaged into totes, and transported offsite. Processing will occur over a two-week period and will occur after each harvest. The processing area will include carbon filters to eliminate odors.
- Ancillary Nursery: The outdoor ancillary nursery will include seven hoophouses. Nursery plants will be planted above ground in pots or growbags. The indoor ancillary nursery will be in five greenhouses. Indoor nursery plants will be in pots on top of raised benches. Nursery plants will be used to support onsite production only.
- Waste Management: All green waste, consisting of dead and or stripped of flower cannabis plants and soil, will be composted onsite within a 20 feet by 30 feet fenced area. Non-compostable waste and recycling will be placed in dumpsters and removed on a weekly basis using a certified waste hauling company. Wastewater will be removed from the Project Area once every two weeks or as needed.
- Facility Maintenance: Routine and preventative maintenance will occur on an as-needed basis and may include minor ground-disturbing activities; or the replacement, repair, and cleaning of cannabis facilities and infrastructure.
- Road Maintenance: There are two access roads in the Project Area, a 12-foot-wide ag-based road to the outdoor facilities and a 20-foot-wide all-weather road to the indoor facilities. Access road maintenance activities may occur over approximately 0.79-mile of access roads. Activities may include re-grading or the replacement of gravel as needed to prevent and repair road surface erosion, rutting, and depressions.
- Vegetation Management: Vegetation will be maintained at a height of 6 inches or less via mowing.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ³
1. San Joaquin antelope squirrel (<i>Ammospermophilus nelsoni</i>)	Threatened ⁴
2. San Joaquin kit fox (<i>Vulpes macrotis mutica</i>)	Threatened ⁵

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

VI. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include: increased vehicle traffic; clearing, grubbing, and grading activities; demolition and construction; use of temporary equipment and supply laydown and staging areas; trenching for utilities; backfilling of excavations and compacting backfill materials; construction of driving surfaces including minor road improvements; ongoing operation and maintenance of facilities, which includes repairing and replacement of cannabis facilities and infrastructure, re-grading and re-graveling of the access roads; vegetation and weed control via mowing; and the excavation of burrows during relocation and salvage activities (collectively referred to as Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as vehicle strikes; crushing by heavy equipment; collapse or excavation of burrows; entombment of individuals during earthwork; and noise and ground vibration that could cause Covered Species to leave burrows at inappropriate times increasing stress, opportunity for overheating, and exposure to predation. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from entrapment in trenches and excavations, uncovering Covered Species through the excavation of burrow systems, by corralling Covered Species into a confined area when barrier fencing is constructed around the Project Area, and when individuals of the Covered Species are relocated out of harm's way as required by this ITP. The areas where authorized take of the Covered Species is expected to occur include within the 8.90-acre Project Area including the outdoor and indoor cultivation facilities, ancillary facilities, and access roads (collectively, the Project Area).

The Project is expected to cause the permanent loss of 8.90 acres of habitat for the Covered Species, all of which will be a permanent loss of habitat for the Covered Species. Covered Species habitat impacted by the Project is comprised of high quality undisturbed and

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

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

⁵See *Id.*, subd. (b)(6)(E).

previously developed open grassland and scrub habitat with loose sandy soils. There is a high potential for the Covered Species to be present within the Project Area. Additionally, the Project Area is located within a movement corridor for San Joaquin kit fox, serving to link extant populations of the species with the core population in the Carrizo Plain. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include stress resulting from noise and vibrations from tunneling and capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

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, and noise and vibration generating activities that may/will cause take. CDFW's issuance of this ITP and Permittee's authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration (SCH No.: 2023040369) adopted by the County of San Luis Obispo on July 7, 2023, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. 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.

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4. General Provisions:

- 4.1. 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.
- 4.2. Designated Biologist(s) and Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting, and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Construction Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.
- 4.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 4.4. 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.

- 4.5. Construction Monitoring Documentation. The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project Area upon request by CDFW.
- 4.6. 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.
- 4.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 4.8. 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.
- 4.9. Delineation of Property Boundaries. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.

- 4.10. Delineation of Habitat.** Before starting Covered Activities, 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. All delineation materials shall be removed and disposed of properly upon completion of activities in the Project Area.
- 4.11. 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 in 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 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.
- 4.12. 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 4.11 of this ITP.
- 4.13. 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.
- 4.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW's efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 4.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.
- 4.16. Lighting.** All temporary and permanent outdoor lighting shall be aimed at the ground, shielded to prevent light from shining skyward, of minimum wattage

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necessary for safety and activity, and of motion-sensor type to prevent continuous nighttime lighting.

- 4.17. Rodenticides, Pesticides, and Insecticides. Permittee shall not use rodenticides, pesticides, and/or insecticides on the Project Area without prior written permission from CDFW. Permittee shall not use any second-generation anticoagulant rodenticide (brodifacoum, bromadiolone, difethialone, and difenacoum) on the Project Area. Permittee shall not use any first-generation anticoagulant rodenticide (diphacinone, chlorophacinone, and warfarin) on the Project Area without prior written permission from CDFW. If pesticides must be used, Permittee shall consult with CDFW and obtain written approval from CDFW prior to their use.

5. Monitoring, Notification, and Reporting Provisions:

- 5.1. Notification Before Commencement. The Designated Representative shall notify CDFW at least 14 calendar days before starting Construction Phase Covered Activities and before each instance of ground-disturbing O&M Phase Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting either phase.
- 5.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggesting measures to remedy the situation.
- 5.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Construction Covered Activities or ground-disturbing O&M Covered Activities occur. The Designated Biologist(s) or Designated Monitor(s) shall also be on-site during construction activities a minimum of once every 14 days during periods of inactivity, after clearing, grubbing, and grading are completed until the Project is in the O&M Phase. While on site, 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;
 - (5) ensure that signs, stakes, and fencing are intact, and that Construction and O&M Covered Activities are only occurring in the Project Area; and
 - (6) document the Covered Activities that occurred.

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Until completion of Construction Covered Activities and during active construction the Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.

- 5.4. San Joaquin Antelope Squirrel Mortality Reduction and Relocation Plan. Permittee shall submit a San Joaquin Antelope Squirrel (SJAS) Mortality Reduction and Relocation Plan to CDFW for written approval prior to beginning Covered Activities. Burrow excavation activities shall not proceed until this plan has been approved in writing by CDFW's Regional Representative. The SJAS Mortality Reduction and Relocation Plan shall include, but not be limited to, timing; detailed burrow excavation methods; release location(s); detailed release methods (i.e., soft release, hard release, or another method); artificial burrow design and installation methods (if needed); and identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured SJAS. Only the Designated Biologist is authorized to capture, handle, and relocate SJAS. Once the SJAS Mortality Reduction and Relocation Plan is approved in writing by CDFW, it shall be used for all SJAS mortality reduction activities for the duration of this ITP. Any proposed changes to the CDFW-approved SJAS Mortality Reduction and Relocation Plan shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any proposed SJAS Mortality Reduction and Relocation Plan modifications.
- 5.5. San Joaquin Kit Fox Den Replacement Plan. Permittee shall submit a San Joaquin Kit Fox (SJKF) Den Replacement Plan to CDFW for written approval prior to beginning Covered Activities. Permittee shall replace each potential, known, and active kit fox den that cannot be avoided within the Project Area with an artificial den to compensate for the loss of important shelter used by kit foxes for protection, reproduction, and escape from predators. Den excavation within the Project Area may not proceed until the SJKF Den Replacement Plan is approved in writing by CDFW's Regional Representative. The SJKF Den Replacement Plan shall include, but not be limited to, a discussion and map of potential artificial den replacement locations; detailed description of the den excavation methods; description of the replacement den dimensions (e.g., depth and width of den, width of den entrance, orientation of den entrance, number and placement of entrances to natal dens); and identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured SJKF. Once the SJKF Den Replacement Plan is approved in writing by CDFW, it shall be used for the duration of this ITP. Any proposed changes to the SJKF Den Replacement Plan shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any proposed SJKF Den Replacement Plan modifications.

- 5.6. Record of Covered Species.** The Designated Biologist shall maintain a record of all Covered Species handled and observed. This information shall include for each animal: (1) the locations (Global Positioning System (GPS) coordinates and maps) and time of capture and/or observation as well as release; (2) sex; (3) approximate age (adult/juvenile) and reproductive condition; (4) weight; (5) general condition and health, noting all visible conditions including gait and behavior, diarrhea, emaciation, salivation, hair loss, ectoparasites, and injuries; and (6) ambient temperature when handled and released. The Designated Biologist shall prepare a Relocation Summary and include it in the Quarterly Compliance Report described below. The Relocation Summary in the Final Mitigation Report described below shall include cumulative results, analysis of data collected, and conclusions.
- 5.7. Quarterly Compliance Report (Construction Phase).** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Compliance Monitoring, described above, into a Quarterly Compliance Report during the Construction Phase only 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 via e-mail to CDFW's Regional Representative (Loreen.Whitfield@wildlife.ca.gov), Regional Office (R4CESA@wildlife.ca.gov) and Headquarters CESA Program (CESA@wildlife.ca.gov) no later than the 15th day of the month following the reporting period. 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.
- 5.8. Annual Status Report (Construction Phase and O&M Phase).** Permittee shall provide CDFW with an Annual Status Report (ASR) during both the Construction Phase 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. The Reporting Period for the ASR shall be the prior calendar year. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for the Reporting Period during the Construction Phase; (2) a record of the Education Program training sessions provided over the Reporting Period; (3) during the Construction Phase, a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known for the reporting period; (4) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (5) a summary of findings from all pre-construction surveys conducted during the Reporting Period, including but not limited to, the number of times a Covered Species or their burrow was encountered, location, if avoidance was achieved, and if not, what measures were implemented; (6) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing

and mitigating Project impacts; (7) all available information about Project-related incidental take of the Covered Species; (8) during the O&M Phase, beginning and ending dates of maintenance activities undertaken during the reporting period; (9) during the O&M Phase, a summary of the type, and location on a map, of maintenance activities relative to the location of Covered Species during all previous reporting periods; and (10) information about other Project impacts on the Covered Species. ASRs shall be submitted to CDFW following the directions provided in the Quarterly Compliance Report Condition of Approval.

- 5.9. Final Mitigation Report.** No later than 45 calendar days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist(s) shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all Annual Status Reports; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information. The Final Mitigation Report shall be submitted to CDFW following the directions provided in the Quarterly Compliance Report Condition of Approval.
- 5.10. 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 Annual Status Report, whichever is submitted first relative to the observation and copies of the submitted forms shall be submitted with the Annual Status Report during the O&M Phase.
- 5.11. Construction Phase Conditions of Approval Evaluation Report.** No later than 45 days after completion of all construction activities, Permittee shall provide CDFW with a Construction Phase Conditions of Approval Evaluation Report. The Designated Biologist shall prepare the Construction Phase Conditions of Approval Evaluation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and any Annual Status Reports prepared during the Construction Phase; (2) beginning and ending dates of Covered Activities for the Construction Phase; (3) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (4) all available information about Project-related incidental take of the Covered Species; (5) recommendations on how the conditions might be changed to more effectively minimize take and

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mitigate the impact of future projects on Covered Species; (6) information about other Project impacts on the Covered Species; and (7) any other pertinent information.

5.12. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by emailing the Regional Representative at Loreen.Whitfield@wildlife.ca.gov and R4CESA@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

6. 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:

6.1. Designated Biologist(s) On Site. The Designated Biologist(s) shall be on site during all activities that may result in the take of Covered Species and in accordance with the Compliance Monitoring Condition of Approval.

6.2. Preventing Entrapment in Excavations. To prevent the inadvertent entrapment of Covered Species, the Designated Biologist(s) shall:

6.2.1. Inspect all excavations (covered or open) for entrapped animals at the beginning, middle, and end of each day until the excavation is backfilled, including weekends and any other non-workdays;

6.2.2. Inspect all excavated holes and trenches for animals immediately before the excavations are backfilled;

6.2.3. Ensure all trenches, holes, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall be covered when workers or equipment are not actively working in the excavation or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, at least 12-foot wide, and secured to the top of the trench, hole, or other excavations at the end of each work day;

6.2.4. Ensure the outer two feet of excavation covers shall conform to solid ground so that gaps do not occur between the cover and the ground. Covering such

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gaps with dirt or laying covers on excavated soil will not satisfy this requirement. The outer two feet of cover material shall be semi-rigid and secured to the ground to preclude animals from lifting the edge (hardware cloth shall be used unless another material is approved by CDFW). The edges of the covers shall be secured with re-bar, minimum 10-inch soil staples, or similar means every 12 inches to prevent animals from lifting the edges; and

- 6.2.5.** If at any time a trapped or injured animal is discovered, the Designated Biologist shall notify CDFW within 24 hours of the incident.
- 6.3.** Covered Species Observations. All workers shall inform the Designated Biologist if a Covered Species is observed within or near the Project Area during implementation of any Covered Activity. Permittee shall cease all work in the vicinity of the Covered Species which could harm the animal until the Covered Species moves from the Project Area of its own accord or a SJAS is moved by the Designated Biologist as per the approved SJAS Mortality Reduction and Relocation Plan required above.
- 6.4.** Covered Species Injury or Mortality. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist(s) shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility in the San Joaquin Antelope Squirrel Mortality Reduction and Relocation Plan and San Joaquin Kit Fox Den Replacement Plan referenced above before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury or mortality of the Covered Species immediately by calling the Regional Office at (559) 243-4005 and by emailing the Regional Representative at Loreen.Whitfield@wildlife.ca.gov and R4CESA@wildlife.ca.gov followed by a written incident report as described in Notification of Take or Injury Condition of Approval 5.12 above. Notification shall include the name of the facility where the animal was taken.
- 6.5.** Covered Species Notification. Permittee shall notify CDFW within 24 hours of discovery of a Covered Species within the Project Area via email at the following addresses: R4CESA@wildlife.ca.gov and CDFW's Regional Representative at Loreen.Whitfield@wildlife.ca.gov. Notification shall include the name of the Covered Species, the name of the individual who discovered the species, a map showing where the Covered Species was found, and photographs depicting the location where the species was found.
- 6.6.** Herbicide Use. Permittee shall limit herbicide use for application to invasive plant species only and only after hand or mechanical efforts have been ineffective. Permittee shall ensure that all application of herbicide is done by a licensed

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applicator in accordance with all applicable federal, state, and local laws and regulations.

- 6.7. Work Hours. Permittee shall conduct all Covered Activities during daylight hours (sunrise to sunset).
- 6.8. Equipment Fueling. Permittee shall complete all equipment fueling and equipment maintenance at least 100 feet from Covered Species dens, burrows, or precincts. Permittee shall ensure that sufficient spill containment and cleanup equipment are present at all equipment fueling locations.
- 6.9. Vehicle Parking. Permittee shall not allow vehicles to park on top of Covered Species dens, burrows, or precincts, except within designated staging areas for which burrows have been excavated per the SJKF Den Excavation or SJAS Burrow Excavation Conditions of Approval. To the greatest extent practicable, vehicles left overnight shall be located at least 50 feet from all Covered Species dens or burrows.
- 6.10. Vehicle and Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment every time before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist immediately and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Project Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved SJAS Mortality Reduction and Relocation Plan required above.
- 6.11. Stockpiling Materials. Permittee shall stockpile all materials and equipment in a manner that discourages Covered Species use. In all locations, bundled or loose materials shall not be placed directly on the ground. These materials shall be elevated to discourage use by Covered Species. Pallets or materials on skids outside of SJKF exclusionary fencing shall be spread out to avoid creating corridors attractive to SJKF or placed on taller skids to elevate them high enough from the ground to discourage SJKF using the materials as a den.
- 6.12. Vegetation Removal. Permittee shall remove any woody vegetation (e.g., shrubs) that will be disturbed within the Project Area by cutting/clipping the vegetation at the base of the plants under the supervision of Designated Biologist using hand tools within the Project Area to encourage Covered Species to move out of the area.
- 6.13. Covered Species Pre-Activity Surveys and Burrow/Den Mapping. The Designated Biologist(s) shall perform Pre-Activity Surveys for Covered Species no more than 10 calendar days prior to beginning ground-disturbing Covered Activities in the Project Area. The Pre-Activity Surveys shall cover the Project Area and 50 feet

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beyond the limits of the Project Area to identify and flag all potential burrows and dens used by Covered Species, whether they appear active or inactive. Permittee shall provide the Pre-Activity Survey results and burrow and den map in a written report to CDFW's Regional Representative at least three calendar days prior to beginning Covered Activities within the Project Area. The Pre-Activity Survey report shall include, but not be limited to, methodology, date, time and duration of survey, results, a discussion, and map of the locations of each potential Covered Species' burrow or den, and an estimated date of Covered Species relocation or an estimated date of the den replacement as described in the San Joaquin Antelope Squirrel Mortality Reduction and Relocation Plan and San Joaquin Kit Fox Den Replacement Plan described above.

- 6.14. Soil Stockpiles. Permittee shall ensure that soil stockpiles are placed where soil will not pass into any "Waters of the State" in accordance with Fish and Game Code section 5650. Permittee shall protect stockpiles to prevent soil erosion.
- 6.15. Delineation of Environmentally Sensitive Areas. Permittee shall clearly delineate Environmentally Sensitive Areas before Covered Activities commence in the Project Area. Environmentally Sensitive Areas shall be marked with brightly colored markers visible to workers with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species. Environmentally Sensitive Areas are defined as all areas that warrant special protection and no-disturbance exclusion buffers, as defined in the collective San Joaquin Antelope Squirrel Specific Take Minimization Measures to be Implemented During Covered Activities and the San Joaquin Kit Fox Specific Take Minimization Measures to be Implemented During Covered Activities, as described below. Permittee shall maintain Environmentally Sensitive Areas in good repair for the duration of the Covered Activities in the Project Area. No Covered Activities are allowed within Environmentally Sensitive Areas except per the collective San Joaquin Antelope Squirrel Specific Take Minimization Measures to be Implemented During Covered Activities and the San Joaquin Kit Fox Specific Take Minimization Measures to be Implemented During Covered Activities, as described below.

San Joaquin Antelope Squirrel Specific Take Minimization Measures to be Implemented During Covered Activities:

- 6.16. SJAS Pre-Activity Surveys. The Designated Biologist shall perform a visual Pre-Activity Survey for SJAS no more than 14 days prior to initiating Covered Activities. The Pre-Activity Survey shall cover the Project Area and 50 feet beyond the limits of the Project Area to identify all potential burrows used by SJAS. The visual Pre-Activity survey shall be conducted under appropriate conditions to detect SJAS. Conditions considered appropriate for visual survey detection of SJAS include temperatures between 68- and 86-degrees Fahrenheit, no more than 80 percent cloud cover, and not under foggy or rainy conditions. Permittee shall

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provide the Pre-Activity Survey results in a written report to CDFW's Regional Representative at least seven days prior to beginning Covered Activities in the Project Area. The Pre-Activity Survey report shall include, but not be limited to, methodology, date and time of survey, a discussion and map of the locations of each potential SJAS burrow, and the date when SJAS relocation will commence as described in the SJAS Relocation Condition below.

- 6.17. SJAS Burrow Avoidance.** The Designated Biologist shall establish a 50 foot or greater no-disturbance buffer around suspected or known to be occupied SJAS burrows within or adjacent to the Project Area to be disturbed by Covered Activities. If the 50-foot no-disturbance buffer cannot be established; live trapping, relocation, and burrow excavation shall occur in accordance with the SJAS Trapping and Relocation and SJAS Burrow Excavation Conditions below.
- 6.18. SJAS Trapping and Relocation.** The Designated Biologist shall conduct live trapping using Tomahawk-type squirrel traps (or other similar squirrel traps) at all potential SJAS burrows detected within the Project Area that cannot be avoided per the SJAS Burrow Avoidance Condition above prior to commencing ground- or vegetation-disturbing Covered Activities. The Designated Biologist shall relocate any captured SJAS to the CDFW-approved release site(s) identified in the SJAS Mortality Reduction and Relocation Plan. SJAS shall be relocated only after young of the year SJAS are observed above ground and during the main activity period for the species (April 1 to September 30) unless otherwise approved in advance and in writing by CDFW.

Approval to conduct trapping and relocation outside of the main activity period for the species will require that the seven-day forecast **predicted by the National Weather Service** that can be independently verified by both CDFW and the Permittee to have daytime high temperatures (sunrise to sunset) between 68- and 86- degrees Fahrenheit with no prediction of inclement weather (e.g., a predicted 30 percent or greater chance of precipitation) and observation of young of the year SJAS (if prior to April 1) and/or adults (if after September 30) above ground at a CDFW-approved reference site. Traps shall only be open during the time of day when **on-site temperatures** are within the 68- to 86- degrees Fahrenheit criterion and only when temperatures are **predicted by the National Weather Service** to remain within that range for more than four hours. Any captured lactating/nursing female or dependent juvenile SJAS shall be released immediately at the trap location and trapping shall cease until young of the year SJAS are observed above ground and no longer dependent on their mother. If trapping occurs prior to April 1 and/or after September 30, the Designated Biologist(s) shall submit daily trapping forms to CDFW for review and concurrence to continue with live trapping. Daily trapping forms shall include, but not be limited to, on-site temperatures and time when traps are opened, when traps are checked, and when animals are relocated; weather conditions (e.g., wind and cloud cover); and the number of traps used.

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After review of the final daily trapping form and concurrence with trapping results, CDFW will approve burrow excavation in advance and in writing following the final day of trapping.

- 6.19. SJAS Burrow Excavation.** Immediately following live trapping activities conducted through the SJAS Trapping and Relocation Condition and prior to commencing Covered Activities, the Designated Biologist, or an individual under the direct supervision of the Designated Biologist, shall fully excavate by hand any potential SJAS burrows present within the Project Area to be disturbed by Covered Activities. SJAS Burrow Excavation shall occur during the same weather conditions as discussed in the SJAS Trapping and Relocation Condition above. Any SJAS encountered during burrow excavation shall be allowed to escape out of harm's way to the adjacent natural habitat or relocated to the CDFW-approved release site(s) identified in the SJAS Mortality Reduction and Relocation Plan by the Designated Biologist. Any dormant SJAS encountered shall be collected by the Designated Biologist and relocated to an artificial burrow installed at the CDFW-approved release site(s). All burrow excavation shall be completed within 72 hours of the conclusion of live trapping.

San Joaquin Kit Fox Specific Take Minimization Measures to be Implemented During Covered Activities:

- 6.20. SJKF Pre-Activity Surveys.** The Designated Biologist shall perform a visual Pre-Activity Survey for SJKF no more than 14 days prior to initiating Covered Activities in the Project Area. The visual Pre-Activity Survey shall cover the Project Area and 50 feet beyond the limits of the Project Area to identify all potential SJKF dens as well as a buffer zone of 500 feet beyond (where feasible) the limits of the Project Area to identify known and/or natal SJKF dens. If the Designated Biologist identifies any known and/or natal SJKF dens, the den(s) shall be monitored for at least four consecutive nights with tracking medium and infrared camera to determine the current use of the den(s). Permittee shall provide the Pre-Activity Survey results in a written report to CDFW's Regional Representative at least seven days prior to the beginning of Covered Activities in the Project Area. The Pre-Activity Survey report shall include, but not be limited to, methodology, date and time of survey, the number of potential SJKF dens, a discussion and map of the locations of each potential, known, and natal SJKF den.
- 6.21. SJKF Den Avoidance.** Permittee shall avoid destroying SJKF dens unless they are in an area of direct ground disturbance (e.g., grading area, excavation area) or their location poses a risk of direct harm to SJKF individuals. Dens in an area of temporary disturbance shall remain intact and the Designated Biologist shall temporarily block the entrance of dens identified in the SJKF Per-Activity Survey as inactive and unoccupied by installing an object approved in advance in writing by CDFW to prevent SJKF from entering and utilizing the den during Covered

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Activities. The Designated Biologist shall remove the object immediately after the Covered Activities are completed and when the Designated Biologist has determined that potential resumed use of the den during construction will not result in harm to SJKF. Permittee shall not destroy or modify dens or exclude foxes from dens that are beyond the direct footprint of ground disturbance to preempt their use and den buffer establishment. To avoid SJKF dens during Covered Activities, Permittee shall establish a minimum 50-foot no-disturbance buffer around a potential SJKF den (any subterranean hole, three inches or larger, for which no evidence is present to conclude that the den is being used or has been used by a SJKF) or if a SJKF is found in an "atypical" den (e.g., a pipe or culvert). If a known den (one that shows evidence of current use) is discovered, Permittee shall establish a minimum no disturbance buffer of at least 100 feet around the den. If a natal den (den in which SJKF young are reared, typically with two or more openings) is discovered, a no disturbance buffer of at least 200 feet shall be established around the den. Natal dens with pups shall have a no disturbance buffer of at least 500 feet. Permittee shall notify the United States Fish and Wildlife Service (USFWS) and CDFW's Regional Representative immediately via telephone and email if any SJKF occupied natal dens are discovered within or immediately adjacent to the Project Area. An established SJKF den no disturbance buffer may be removed around previously active dens if the Designated Biologist has documented that SJKF are no longer using the area.

6.22. SJKF Den Replacement. Permittee shall replace each known and natal SJKF den that cannot be avoided as per the SJKF Den Avoidance Condition above with an artificial den. Permittee shall install one artificial kit fox den for each known den and three artificial dens for each natal den to be collapsed due to unavoidable disturbance. If there are no suitable existing dens within 100 meters of the collapsed den, the Permittee shall install artificial dens within 100 meters of the collapsed den. Artificial natal dens shall be multi-chambered and have multiple entrances. If greater than 10 suitable kit fox dens are located within a 100-meter radius of the collapsed den, Permittee shall consult with CDFW about appropriate locations for installation of artificial dens. Installation of artificial den(s) shall be completed before excavation of known and natal SJKF dens can occur per the SJKF Den Excavation condition below, to compensate for the loss of important shelter used by SJKF for protection, reproduction, and escape from predators. Den replacement shall be completed in accordance with the CDFW-approved SJKF Den Replacement Plan.

6.23. SJKF Den Excavation. The Designated Biologist or individuals under direct supervision of the Designated Biologist shall excavate potential or known dens that exhibit signs of SJKF use or characteristics suggestive of SJKF dens (including dens in natural substrate and in/under man-made structures) that cannot be avoided as per the SJKF Den Avoidance Condition only after the Designated Biologist has determined that SJKF is not currently present after four consecutive

nights of monitoring with tracking medium and infrared camera. Potential SJKF dens without any signs of SJKF use or characteristics suggesting it is a SJKF den may be excavated under the direct supervision of the Designated Biologist without advance tracking or camera monitoring. Natal dens shall not be excavated until the pups and adults have vacated the den and then only after written concurrence from the USFWS and CDFW. If the excavation process reveals evidence of current use by SJKF, then den excavation shall cease immediately and tracking, or camera monitoring as described above shall be conducted/resumed. Excavation of the den shall only resume when, in the judgment of the Designated Biologist, the SJKF has escaped from the partially excavated den. SJKF dens shall be carefully excavated until it is clear no individuals of SJKF are inside. Dens to be destroyed shall be fully excavated by hand, filled with dirt, and compacted to ensure that SJKF cannot reenter or use the den during the period that Covered Activities would occur in the Project Area. If an individual SJKF does not vacate a den within the Project Area within a reasonable timeframe, Permittee shall consult with CDFW and USFWS to obtain written guidance from both agencies prior to proceeding with den destruction.

Operation and Maintenance (O&M) Phase Covered Activities Take Minimization Measures:

- 6.24. O&M Covered activities Requirement.** Permittee shall implement all General Provisions and Monitoring, Notification, and Reporting Provisions Conditions of Approval of this ITP for all O&M Covered Activities as applicable.
- 6.25. O&M Covered Activities Designated Biologist On-site.** The CDFW-approved Designated Biologist(s) shall be on-site during all ground disturbing activities.
- 6.26. 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 potential Covered Species dens or burrows. Vehicles left overnight shall not be located within 50 feet of Covered Species dens (known or potential) or burrows or precincts.
- 6.27. O&M Phase Vehicle and Equipment Inspection.** During the O&M Phase, workers shall inspect for Covered Species under vehicles and equipment every time the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Designated Biologist shall be contacted to determine if the animal can be safely moved under the Conditions of Approval of this ITP.
- 6.28. O&M Covered Activities Pipes and Materials Inspection.** Permittee shall ensure that all pipes or similar materials stockpiled or replaced in the Project Area be capped or otherwise enclosed at the ends to prevent entry by Covered Species.

Permittee shall not leave any permanent pipes or similar materials or structures open where Covered Species may enter them and become trapped. The Designated Biologist shall thoroughly inspect all such materials for Covered Species before they are moved, buried, or capped. If a Covered Species is discovered inside such material, that section of material shall not be moved until the animal has escaped of its own accord. If a Covered Species inside such materials does not vacate on its own volition within a reasonable timeframe, Permittee shall contact CDFW to obtain written concurrence via email prior to proceeding with eviction of the Covered Species.

- 6.29. O&M Covered Activities Covered Species Observations.** During all O&M Covered Activities within the Project Area, all workers shall inform the Designated Biologist(s) if a Covered Species is observed within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until the Covered Species moves from the Project Area of its own accord or is relocated by the Designated Biologist(s) in accordance with the CDFW-approved SJAS Mortality Reduction and Relocation Plan.
- 6.30. O&M Covered Activities SJKF Den Avoidance.** Unless otherwise approved in writing by CDFW, if a potential SJKF den (any subterranean hole, three inches or larger, for which no evidence is present to conclude that the den is being used or has been used by a SJKF is discovered, prior to conducting ground-disturbing O&M Covered Activities, a minimum 50-foot no disturbance buffer shall be established around the den. If a known den (one that shows evidence of current use or use in the past) is discovered prior to conducting ground- or vegetation-disturbing O&M Covered Activities, Permittee shall establish a minimum no disturbance buffer of at least 100 feet around the den. If a natal den (den in which SJKF young are reared, typically with two or more openings) is discovered prior to conducting ground-disturbing O&M Covered Activities, a no disturbance buffer of at least 200 feet shall be established around the den. Natal dens with pups shall have a no disturbance buffer of at least 500 feet. Permittee shall notify USFWS and CDFW's Regional Representative immediately via phone and e-mail if any SJKF-occupied natal dens are discovered within or immediately adjacent to the Project Area. If these no-disturbance buffers cannot be established, then the SJKF Den Replacement or SJKF Den Excavation Conditions of Approval as applicable shall be implemented.
- 6.31. O&M Covered Activities SJAS Burrow Avoidance.** Unless otherwise approved by CDFW, the Designated Biologist shall establish a no disturbance buffer of 50 feet or greater around suspected or known to be occupied SJAS burrows during all ground-disturbing O&M Covered Activities. If the 50-foot no disturbance buffer cannot be established; live trapping, relocation, and burrow excavation shall occur in accordance with the SJAS Specific Take Minimization Measures Conditions of Approval.

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6.32. O&M Covered Activities Covered Species Injury. If a Covered Species is injured as a result of conducting O&M Covered Activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting O&M Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately by phone and e-mail followed by a written incident report within two days calendar days of the incident as described in Covered Species Injury Condition of Approval.

7. 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 purchase 26.7 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 7.1 below. Purchase of Covered Species credits must be completed before starting Covered Activities.

7.1. Covered Species Credits. Permittee shall purchase 26.7 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities. 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.

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

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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 (2081-2022-086-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Julie A. Vance, Regional Manager
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
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

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

Loreen Whitfield
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
(559) 939-0258
Loreen.Whitfield@wildlife.ca.gov

XIII. Compliance with the CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, County of San Luis Obispo. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the EC Grow, LLC. Cannabis Cultivation Project Mitigated Negative Declaration and Initial Study, (SCH No.: 2023040369) dated April 2019 that San Luis Obispo adopted for EC Grow, LLC. Cannabis Cultivation Project on July 7, 2023. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

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, EC Grow, LLC., Cannabis Cultivation, Initial Study and Mitigated Negative Declaration, 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:

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- (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 for San Joaquin antelope squirrel and San Joaquin kit fox; (2) establishment of avoidance zones; (3) worker education; and (4) Quarterly and Annual 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 the protection and management in perpetuity of 26.7 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. The Project Area is comprised of undeveloped and previously disturbed grassland and scrub habitat with loose sandy soils which provide highly suitable habitat for San Joaquin antelope squirrel and San Joaquin kit fox. In addition, the Project Area is located within a movement corridor for San Joaquin kit fox, serving to link extant populations of the species with the core population in the Carrizo Plain. Protection and management of the HM lands, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of: (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's

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

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

ON 7/15/2024

DocuSigned by:
Sarah Paulson
E9964E60293D40A

For Julie A. Vance, Regional Manager
Central Region

Incidental Take Permit
No. 2081-2022-086-04
**ERIC CHARLES
EC GROW, LLC.**