

California Department of Fish and Wildlife
South Coast Region 5
3883 Ruffin Road
San Diego, CA 92123

California Endangered Species Act Incidental Take Permit No. 2081-2024-007-05

TAJIGUAS LANDFILL CAPACITY INCREASE 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: Santa Barbara County, Resource Recovery and Waste

Management Division

Principal Officer: Joddi Leipner, Senior Engineering Environmental Planner

Mailing Address: 130 E. Victoria Street, Suite 100

Santa Barbara, CA 93101

Contact Person: Joddi Leipner, Senior Engineering Environmental Planner

Telephone: (805) 882-3614

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 **August 1, 2039**.

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

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

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.6 of this ITP.

III. Project Location:

Tajiguas Landfill Capacity Increase Project

The Tajiguas Landfill Capacity Increase Project (Project) is located at the Tajiguas Landfill in unincorporated Santa Barbara County approximately 26 miles west of the City of Santa Barbara (see Figure 1). The street address for the Tajiguas Landfill is 14470 Calle Real, Santa Barbara, California 93117 (see Figure 2). The Tajiguas Landfill is located on Santa Barbara County-owned land encompassing three Assessor Parcel Numbers (APN) 081-150-042, 081-150-019, and 081-150-026. Approximately five acres of the Project extends onto the Santa Barbara County-owned Baron Ranch (APN 081-150-032) to accommodate the Santa Barbara County ReSource Center's Anaerobic Digestion Facility and associated Tajiguas Landfill perimeter access road and drainage system. The Project would primarily be located on APN 081-150-026.

Baron Ranch Mitigation Site

Mitigation is proposed off site on the Baron Ranch property located immediately adjacent to the Tajiguas Landfill at 14550 Calle Real, Santa Barbara, California, 93117 (see Figure 3). The Baron Ranch property was purchased in 1991 by the Resource Recovery and Waste Management Division of Santa Barbara County's Public Works Department to serve as a buffer between the Tajiguas Landfill and private property to the east.

IV. Project Description:

The Project will increase the capacity of the Tajiguas Landfill by expanding the disposal area footprint to the north and east by approximately 14.25 acres (see Figures 4 and 5). The Project will provide approximately 6.1 million cubic yards of additional airspace for burial of solid waste to extend the estimated closure year of the Tajiguas Landfill to approximately December 2038. There will be no change to the overall permitted operational area of 357 acres. Project activities include vegetation removal, excavation, blasting, grading, slope contouring, slope stabilization, concrete pouring, paving, and relocation of utility lines and pipes.

Construction Phase

Excavation, Blasting, and Stockpiling

The Project will excavate approximately 566,400 cubic yards of material to a maximum of 30 feet below the ground surface of the existing North Sedimentation Basin. This will provide approximately 12.5 acres of additional slope linear area and approximately 1.75 acres of additional base linear area.

Slopes north of the existing waste footprint will be excavated and constructed to a 2:1 (horizontal:vertical) inclination except for the northern excavated slope at the bottom which would be constructed at a 1:1 inclination for stability purposes. Material will be excavated and moved using scrapers, dozers, loaders, excavators, drill rig for blasting, compactors, dump trucks, haul trucks, vibrating soil screener, motor grader, water truck, off-road forklift with liner roll handling attachment, pick-up trucks, and low-pressure all-terrain vehicles. Removal of material will involve blasting when the material being excavated becomes too hard to rip or excavate with conventional equipment. A licensed blasting contractor will be used. Blasting will occur in multiple events, up to six in a peak year. A licensed blasting contractor will prepare a blasting plan to be reviewed by a blasting expert. The blasting plan will be designed to minimize ground vibration and noise from the blasting at the Tajiguas Landfill property boundaries. The blasting plan will also be designed to protect existing nearby structures and prevent slope instabilities. Excavated material will be stockpiled in the North Borrow/Stockpile for use as future daily cover.

Liner Installation

The Project will install two groundwater protection systems (liners) consisting of an engineered composite liner system to prevent water percolating through the waste or generated by decomposition of the waste (leachate) from impacting groundwater. The existing subdrain system piping will be extended to collect any potential seepage. An over-liner may be required within portions of the expansion area that are not lined to current standards.

Landfill Gas Collection System Extension

The Project will extend the Tajiguas Landfill gas collection system into the expansion area. The Tajiguas Landfill employs a landfill gas collection system consisting of horizontal and vertical extraction wells to control downward and lateral migration of landfill gasses, which limits the dissolution of landfill gasses in groundwater and soil moisture.

Slope Stabilization

The Project will construct a series of benches (at a minimum of 15 feet wide), placed at a maximum of 50 feet vertically, and final slopes no steeper than a 2:1 slope between benches. As part of the horizontal and vertical increased capacity, a stability toe berm is anticipated to be required (see Figure 6). The stability toe berm will be constructed immediately east of the existing lined and unlined Pila Creek channel and west of the existing disposal area.

Stormwater Runoff Control Structures

The Project will install drainage structures (i.e., v-ditch and pipe down drains) for stormwater runoff. The expansion will extend over the southern portion of the existing North Sedimentation Basin resulting in the loss of approximately 10.2 acre-feet of storage. To restore lost capacity, the remainder of the North Sedimentation Basin will be expanded to the west and provide a total

capacity of approximately 19 acre-feet (see Figure 6). Stormwater runoff from the Tajiguas Landfill is directed to two sedimentation basins which discharge into Pila Creek. The existing spillway system of the Pila Creek flow control structure will be modified to maintain the existing detention capacity of approximately 22.3 acre-feet and maintain the maximum downstream flow rate of 187 cubic feet per second. The spillway height will be raised vertically by approximately 2.7 feet from the approximate elevation of 390.5 feet above mean sea level. The existing flow control structure will remain, but a new spillway wall will be installed by saw cutting into the existing concrete and tying the new spillway wall into the existing structure with a new raised concrete spillway.

Utilities and Access Road Relocation

The Project will relocate a portion of the Overhead Power and Communications Line connecting the Materials Recovery Facility (MRF) to the Anaerobic Digestion Facility (ADF). An existing 30-inch diameter pipeline (composting management stormwater drain, on grade) conveying overflow from the composting management unit stormwater runoff collection tank will be relocated and reconnected to the Upper North Sedimentation Basin. The MRF to ADF Treated Landfill Gas Supply Line will be relocated (see Figure 6).

Paved access roads currently extend into the back canyon area of the Tajiguas Landfill to a point just south of the proposed expansion area (see Figure 6). The current access road to the Composting Management Unit and ADF will be rerouted. The Project will construct new access roads as areas are filled with waste in accordance with the final contours at closure. The Project will construct a paved road approximately 2,900 feet in length and 35 feet in width around the north side of the expansion area. In addition, the Project will reroute the central access road and construct a paved road approximately 2,200 feet in length at 35 feet wide. Other temporary and permanent unpaved access (3,500 feet in length and 40 feet wide), benches (15 feet wide), paved turnarounds (150 feet in diameter), and gravel lined areas (50 to 100 feet wide) for wet weather access will be installed in the expansion area.

Schedule

Construction is proposed to begin late summer/fall, 2024, and would be completed by 2038. Construction of the capacity increase project would be phased, with ground water protection systems (liners) installed with each phase. Construction of the first phase is proposed to begin late summer/fall 2024 and take approximately two years to complete for the expansion area to be able to begin receiving waste in 2026. Phase one includes relocation of overhead power and communication lines and excavation and blasting (as needed) in the first year and continued excavation, installation of the liner and construction of the modified north sedimentation basin in the second year. Depending on the rate of waste placement, subsequent liners (Phases two and three) would be installed beginning in approximately 2027 and 2029 on the vegetated slope east of the existing waste disposal area. An overliner would be installed within the existing disturbed areas between the existing waste disposal area and the Composting Management Unit in approximately 2033. In

approximately 2037, the final liner would be installed in the area currently occupied by the Landfill Maintenance and Storage Deck, following removal of the existing facilities on the deck in 2036.

Baron Ranch Mitigation Site

The proposed mitigation site is located on Baron Ranch, located adjacent to the Project (see Figure 3). A 10.4-acre site that was previously an avocado orchard, will be restored with native habitat. A 4.5-acre site will be enhanced with native habitat. All 14.9 acres of mitigation must be conserved and managed in perpetuity.

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

This ITP covers the following species:

Name CESA Status³

Crotch's bumble bee (Bombus crotchii) Candidate⁴

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 preparing the expansion area for construction; clearing and removing vegetation; grading; excavating; blasting; handling of stockpiles and stored materials; compacting soils; trenching; backfilling; staging and operating heavy equipment; constructing and paving roads; pouring concrete; vehicle and foot traffic; and habitat restoration, enhancement, and monitoring (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 striking, burying, suffocating, crushing, entombing, and destroying individuals of the Covered Species, including nesting colonies and overwintering queens, during vegetation removal and earth work (grading, excavating, blasting, placing spoils and/or fill materials); and striking individuals of the Covered Species during operation of power tools (direct contact with sharp objects and/or blunt-force trauma). Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of degrading, removing, or burning (as a result of fire sparked by blasting or operating machinery) nesting or foraging habitat; pursuing, catching, capturing, or attempting to do so when individuals of the Covered Species are collected for identification or relocated out of harm's way; and disturbing habitat while conducting habitat

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

⁴ The species status may change following the decision of the Fish and Game Commission to designate the species as threatened or endangered but if there is such a designation, the species will remain a Covered Species.

enhancement, maintenance, and monitoring activities. The areas where authorized take of the Covered Species is expected to occur include the 14.25-acre expansion area and Baron Ranch mitigation site (collectively, the Project Area).

The Project is expected to cause temporary impacts on 5.5 acres of habitat for the Covered Species and permanent loss of 10.2 acres of habitat for the Covered Species consisting of 8.03 acres of manufactured cut slopes that were revegetated with California brittle-bush scrub (Encelia farinosa) and California buckwheat scrub (Eriogonum fasciculatum) and 2.16 acres of previously undisturbed black sage scrub (Salvia mellifera) and big-pod ceanothus (Ceanothus megacarpus) chaparral habitat. 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 causing stress and disorientation to individuals of the Covered Species resulting from noise, ground vibrations, capture and relocation, and dust; loss or decline of foraging, nesting, and overwintering habitat resulting from introduction or spread of invasive species; decreased food supply through changes in composition of floral nectar resources or prey abundance (starvation); increased vulnerability to predation; exposure to contaminants and hazardous materials (herbicides, pesticides, vehicle and equipment fuels and fluids); exposure to pathogens through introduction of contaminated water; and long-term effects due to displacement from preferred habitat, barriers and increased travel distance to foraging, nesting, and overwintering habitat (decreased reproductive output, energetic expenses, exposure to predation and elements), changes in drainage patterns that favor different vegetative growth, increased pollution, and increased competition for food and space. Individuals of the Covered Species displaced from the Project Area due to habitat loss and degradation may be unable to survive in adjacent areas if these areas are at carrying capacity or are unsuitable for colonization.

VII. Incidental Take Authorization of Covered Species:

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

VIII. Conditions of Approval:

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

authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

- **1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance: Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Subsequent Environmental Impact Report (SCH No.: 2023030563) certified by Santa Barbara County Public Works Department Resource Recovery and Waste Management Division on March 19, 2024, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- **3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. EPIMS-SBA-49042-R5) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- **4. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the Conditions of Approval in this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

5. General Provisions:

- **5.1.** <u>Designated Representative</u>. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
- 5.2. Designated Biologists. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species, as well as knowledgeable in the biology of other co-occurring bumble bee species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of Designated Biologist(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if Designated Biologist(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 their duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately (see Condition of Approval 6.4). 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, general identification and how to distinguish bumble bees versus other flying insects, 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 shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.
- **5.6.** <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. Plastic water bottles and plastic bags shall be removed daily.
- **5.7.** <u>Dust Control</u>. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- **5.8.** <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.
- **5.9.** <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.
- **5.10.** <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.
- 5.11. Project Access. Project-related personnel shall access the Project Area using existing routes, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Unless otherwise described, Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on roads. If Permittee determines construction of routes for travel is necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of Project modification.
- **5.12.** 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 5.11 of this ITP.
- **5.13.** <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.
- **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.** <u>Refuse Removal</u>. Upon completion of all phases of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.
- 6. Monitoring, Notification and Reporting Provisions:
 - **6.1.** <u>Notification Before Commencement</u>. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
 - 6.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.
 - **6.3.** <u>Compliance Monitoring</u>. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to:
 - (1) minimize incidental take of the Covered Species;
 - (2) prevent unlawful take of species;
 - (3) check for compliance with all measures of this ITP;
 - (4) check all exclusion zones; and,
 - (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

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

During periods of inactivity or after vegetation clearing and grading have been completed, compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. Permittee shall immediately resume daily compliance inspections if the Designated Biologist or CDFW finds the Permittee is out of compliance with any Conditions of Approval of this ITP, upon written notification from CDFW, and/or if the Covered Species, including nests or overwintering queens, are suspected or confirmed in the Project Area.

- compile the observation and inspection records identified in Conditions of Approval 6.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, CDFW's Regional Representative is Kelly Schmoker (Kelly.Schmoker@wildlife.ca.gov and copy R5CESA@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.
- 6.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- **6.6.** <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 Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information

Incidental Take Permit No. 2081-2024-007-05 CAPACITY INCREASE PROJECT 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.

- 6.7. CNDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. The Designated Biologist shall submit a notification of observation (including species name, date of observation and GPS coordinates) by email to CDFW's Regional Representative within 24 hours of observation.
- 6.8. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken, needs to be relocated, 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's Regional Representative (Kelly.Schmoker@wildlife.ca.gov) and copy R5CESA@wildlife.ca.gov) and by calling CDFW's Regional Representative at (626) 848-8382 by the end of the business day. 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, GPS location (including GPS error estimated in feet and datum) of the Covered Species, photographs of the location and the Covered Species, explanation as to cause of take or injury, and any other pertinent information.
 - Biologist shall salvage, photograph, and place the carcass in a labeled, clean Ziplock bag or vial and store it in a freezer. The label shall include a unique identifier (collection number), species name, time and date of collection, collection location, GPS location (including datum and horizontal error in feet), circumstances surrounding death (if known), collector name and contact information (phone number or email), and ITP Number. The Designated Biologist shall deliver the carcass (on dry ice if possible) to the following address and notify CDFW's Regional Representative at the time of shipping:

CDFW Wildlife Genetics Research Unit (Wildlife Health Lab) Attention: Michael Buchalski

1415 North Market Blvd., Suite 9 Sacramento, CA 95834

- **7. Take Minimization Measures:** The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. Permittee shall implement and adhere to the following conditions to minimize take of Covered Species:
 - **7.1.** <u>Timing of Vegetation Removal</u>. Permittee shall remove vegetation after plants have stopped blooming in the fall and outside of the Colony Active Period (February 1 through August 31), to the maximum extent feasible. Permittee shall set mower blade heights no lower than 4 inches, unless otherwise approved by CDFW in writing.
 - 7.2. <u>Daily Work Area Coverage</u>. Permittee shall ensure that each daily work area is adequately covered by a Designated Biologist. Permittee shall proceed with Covered Activities in a systematic manner to facilitate the Designated Biologist(s) in performing surveys required by Condition of Approval 7.5 and 7.6. If there are multiple, separate work areas on a given work day, Permittee shall provide a Designated Biologist for each separate work area.
 - 7.3. Immediately Stop Covered Activities. Permittee shall immediately stop all Covered Activities in the vicinity where Covered Species is found, and notify the Designated Biologist and CDFW's Regional Representative (Kelly.Schmoker@wildlife.ca.gov and copy R5CESA@wildlife.ca.gov) if a Covered Species is taken, needs to be relocated, or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured.
 - **7.4.** Overwintering Season. During Covered Activities occurring during the Overwintering Season (November 1 through January 31), the Designated Biologist shall walk ahead of grading and vegetation removal equipment and look for potential hibernacula such as leaf litter, logs, and rodent burrows.
 - 7.4.1. Overwintering Site Buffer. If any overwintering Covered Species are found during Covered Activities, the Permittee, in consultation with the Designated Biologist shall immediately stop and prohibit all Covered Activities within 50 feet of the queen Covered Species individual and hibernaculum. Permittee shall delineate the 50-foot buffer and notify all workers not to enter the environmentally sensitive area. If an overwintering queen is exposed, the Designated Biologist shall cover and protect the queen bumble bee by the substrate it was found in/under and return any materials removed during surveys (e.g., grass, vegetation, bark, and debris) to re-create predisturbed conditions. The Designated Representative or Designated Biologist shall contact CDFW's Regional Representative within 24 hours for further consultation. The Designated Biologist shall record the queen's location with a GPS (including datum and horizontal accuracy in feet) and include photographs and a map of the

queen's location as part of notification to CDFW's Regional Representative. Permittee shall increase the size and/or modify the environmentally sensitive area buffer upon notice from CDFW. Permittee shall maintain buffers until further instructions from CDFW's Regional Representative.

- 7.5. Nesting Season Covered Species Pre-Construction Surveys. Prior to Covered Activities occurring during the Colony Active Period (February 1 through August 31), the Designated Biologist shall search for the Covered Species through an area planned for Covered Activities. The Designated Biologist shall perform two (2) visual surveys consisting of meandering transects no more than 10 days prior to the commencement of Covered Activities in that area. The Designated Biologist shall conduct surveys at least four (4) days apart with the second survey occurring within two (2) days prior to starting Covered Activities in that area. The Designated Biologist shall focus attention on areas with blooming native and non-native nectar and pollen resources for the Covered Species. The survey duration shall be appropriate to the size of the area planned for Covered Activities plus 50 feet based on the metric of a minimum of one (1) person-hour of searching per three (3) acres of suitable habitat. The Designated Biologist shall conduct surveys between 8:00 AM and 4:00 PM (Pacific Standard Time) on sunny days between 55- and 90-degrees Fahrenheit with sustained wind speeds measuring less than 10 miles per hour. If the Covered Species is detected or suspected during surveys, the Designated Biologist shall flag the area where the observation was made and closely monitor the areas that were flagged during Covered Activities.
 - 7.5.1. Locating Nests. The Designated Biologist shall make every effort to locate nests if the Covered Species is suspected or confirmed within the Project Area. The Designated Biologist shall observe any ground animal burrow entrances for signs of the Covered Species. To confirm a suspected Covered Species nest⁵, the Designated Biologist may block/cover any burrow entrance with a jar/vial (or similar) of appropriate size for no more than 30 minutes or until a bumble bee is detected. The Designated Biologist shall also observe bunch grasses, thatched annual grasses, brush piles, old bird nests, dead trees, or hollow logs to determine if a potential nest could be present. The Designated Biologist shall identify the species of bumble bee if a bumble bee is detected.
 - **7.5.2.** Nest Buffer. If a Covered Species nest is detected or suspected, the Permittee, in consultation with the Designated Biologist, shall prohibit or immediately stop all Project Activities within 50 feet of the nest. Permittee shall delineate the 50-foot buffer and notify all workers not to enter the environmentally sensitive area. The Designated Representative or Designated Biologist shall contact CDFW's Regional

⁵ Because worker bees are actively foraging, they should arrive and exit an active nest site with frequency during the active period, such that their presence would be apparent after a few minutes of observation much like other bee, wasp, or hornet species.

Representative within 24 hours for further consultation (see Condition of Approval 6.4). The Designated Biologist shall record the nest location with a GPS (including datum and horizontal accuracy in feet) and include photographs and a map of the nest location as part of notification to CDFW's Regional Representative. Permittee shall increase the size and/or modify the environmentally sensitive area buffer upon notice from CDFW. Permittee shall maintain buffers until further instructions from CDFW's Regional Representative.

- **7.5.3.** Repeat Surveys Following Periods of Inactivity. If Covered Activities are suspended for longer than three days during the Queen Flight Season (February 1 through March 31), the Designated Biologist shall perform one visual survey when survey conditions are met (see Condition of Approval 7.5) prior to re-starting Covered Activities.
- 7.6. Nesting Season Daily Visual Sweeps. The Designated Biologist shall conduct daily visual sweeps of the Project Area for Covered Species at the start of daily work and throughout the daily work day. The Designated Biologist shall intermittently repeat visual sweeps throughout the daily work window because the Covered Species is unlikely to be active before the start of daily Covered Activities that initiate prior to 8:00 AM. If the Covered Species is detected or suspected, the Designated Biologist shall follow requirements under Condition of Approval 7.5.1 and 7.5.2. After initial vegetation clearing has been completed, the frequency of daily visual sweeps may be modified after Permittee consults with and obtains written approval from CDFW.
- Weed Management Plan. Permittee shall submit to CDFW for its review and approval a Weed Management Plan (WMP Plan) before starting Covered Activities. The WMP Plan shall include measures to ensure that non-native invasive plant species do not become established within or adjacent to the Project Area or proliferate as a result of Covered Activities. The WMP Plan shall address non-native plants within and adjacent to the Project Area during construction and post-construction. The WMP shall also address Covered Species habitat. The WMP shall prohibit the establishment of any plant listed on the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory (High, Moderate, Limited, and Watch lists). The WMP Plan shall address sources of non-native plant introduction and establishment; measures to minimize the potential of non-native plant spread and/or proliferate in the Project Area and adjacent to the Project Area; management of stockpiles; identification/Early Detection Rapid Response; and methods to eradicate non-native plants prior to seed set. Prevention Best Management Practices and guidelines for invasive plants can be found on Cal-IPC's Prevention webpage and Cal-IPC's Preventing the Spread of Invasive Plants: Best Management Practices for Land Managers.
- **7.8.** Pesticide Use. Permittee shall not use pesticides such as herbicides, insecticides, or rodenticides within the Project Area. If pesticides must be used, including for habitat

- restoration and enhancement, Permittee shall consult with CDFW and may only use pesticides upon CDFW's written approval (see Condition of Approval 7.9 below).
- 7.9. Pesticide Use Plan. If pesticide use is approved by CDFW, Permittee shall submit to CDFW for its review and approval a Pesticide Use Plan to Avoid and Minimize Impacts to Crotch's Bumble Bee (Pesticide Use Plan). The Pesticide Use Plan shall describe Best Management Practices to avoid and minimize adverse effects of pesticide use on individuals of the Covered Species and Covered Species habitat adjacent to the Project Area.

Permittee shall incorporate the following (at a minimum) into the Pesticide Use Plan: (1) follow best management practices described by Xerces Society's Guidance to Protect Habitat from Pesticide Contamination, California Department of Pesticide Regulation, and the University of California's Division of Agriculture and Natural Resources Statewide Integrated Pest Management Program's Best Management Practices to protect bees from pesticides; (2) avoid mixtures with adjuvants containing alkylphenol ethoxylates, (3) avoid use of soil fumigants, which penetrate the soil and can poison ground nesting bees; (4) avoid spraying herbicides, especially on plants that are in bloom to minimize direct or indirect contact the Covered Species; (5) use targeted methods only; (6) pesticide application shall be conducted when the Covered Species is overwintering (i.e., outside of the Colony Active Period) to the maximum extent practicable; (7) avoid the use of pesticides marked with the U.S. Environmental Protection Agency's bee hazard icon; and (8) preferentially use chemicals that are rated green/III in the University of California Integrated Pest Management Bee Precaution Database and chemicals of the least toxic products at the least concentrated application when possible.

- **7.10.** Restoration of 5.5 acres of Temporary Impacts. Permittee shall restore 5.5 acres of temporary impacts within the Project Area that will be cut and graded but not a part of the Project (see Figure 3). Permittee shall ensure that restoration and enhancement is implemented and completed to meet the following goals: (1) to restore and enhance habitat that will be temporarily disturbed during Covered Activities to pre-Project or better conditions, (2) to provide locally-native floral resources for the Covered Species, and (3) to effectively control and monitor invasive plants without damage to adjacent Covered Species habitat and to root systems of establishing/planted plants.
 - **7.10.1.** <u>Vegetation Sampling Methodology</u>. Permittee shall develop a Vegetation Sampling Methodology for CDFW's review and approval at least 60 days prior to the start of restoration activities. The Vegetation Sampling Methodology shall include both a qualitative and quantitative assessment of native and invasive plant species. The quantitative assessment shall be based on establishment of a representative number of transects within areas to be restored/enhanced (treatment sites) and paired reference areas (reference sites) within intact natural habitat that will be used as a model for restoration and enhancement activities. Each treatment-reference transect

set shall be appropriately placed and numbered for identification purposes. The slope, aspect, and soil and hydrological conditions shall be similar for the paired treatment and reference sites. Permittee shall ensure that data collection and analysis methodologies are appropriate to document pre-Project baseline and postrestoration/enhancement conditions, and reflects percent cover, richness, diversity, and general abundance of native plant species by vegetative layer, and invasive plant species ranked in Cal-IPC's Invasive Plant Inventory. In addition, Permittee shall establish photo stations to photograph treatment sites during the Covered Species Active Season (February 1 - October 31) to document availability of a variety of blooming plants and presence of invasive plant.

- **7.10.2.** Temporary Impact Restoration Plan. Permittee shall submit a Temporary Impact Restoration Plan to CDFW for review and approval within six (6) months of issuance of this ITP. The Temporary Impact Restoration Plan shall include detailed descriptions and plans for the following: (1) implementation (e.g., plant palette, installation methods, timing); (2) quantitative monitoring methods for revegetation success and invasive plants (species richness, diversity, abundance, frequency/density, separated out by vegetation layer); (3) qualitative monitoring using photo stations to photograph revegetation progress and success, and compare treatment and reference sites (e.g., number of stations, locations, map, frequency of visits/photo monitoring); (4) maintenance and invasive plant control methods (e.g., supplemental watering, planting, and seeding); (5) performance standards and success criteria; and (6) measures to be taken if performance standards are not met (see Condition of 7.10.2.8). Permittee shall not implement revegetation activities until CDFW has approved the Temporary Impact Restoration Plan.
 - **7.10.2.1.** Plant Palette. Permittee shall use a plant palette consisting of locally native nectar resources for the Covered Species that can be expected to be blooming at any given time during the Covered Species Active Season (February 1 - October 31). Permittee shall use a diverse assemblage of herbs, forbs, vines, sub-shrubs, as well as annual and perennial plant species. Nectar- and pollen-producing plants that may be used by the Covered Species include, but are not limited to, the genera Chaenactis, Lupinus, Phacelia, and Salvia in the families Fabaceae, Apocynaceae, Asteraceae, Lamiaceae, Hydrophyllaceae, Plantaginaceae, Onograceae, Papaveraceae, Polygonaceae, and Boraginaceae. The plant palette must include black sage (Salvia mellifera) scrub. Permittee shall use nectar resources that are weed and pest free (e.g., Argentine ants), pathogen-free, and have not been treated with pesticides. Permittee shall use a minimum of 30 plant species representing multiple vegetation layers described above. If hydroseeding is approved by CDFW for temporary impacts, Permittee shall use seed mixes consisting of only locally native species, including diverse assemblages of native flora, to ensure a continuous source of flowers for the

- duration of the Covered Species Active Season. Permittee shall collect seed from within the Project Area and shall source any additional seed from within 30 miles of the Project Area.
- **7.10.2.2.** <u>Erosion Control</u>. Permittee shall protect exposed soils from erosion using biodegradable materials or appropriate mulch cover until vegetation is established. Permittee shall ensure materials used for erosion control such as mulch and/or straw are weed and pest free (e.g., Argentine ants), pathogen-free, and have not been treated with pesticides.
- **7.10.2.3.** Timing. Permittee shall complete planting and seeding (seeding only if approved by CDFW), during the rainy season, generally between October and March, but no later than March 31. If feasible, Permittee shall apply seed immediately prior to the first rain event. At the discretion of CDFW, Permittee shall complete a second application of seeding as soon as is practical on a date mutually agreed upon if initial seeding is unsuccessful after 90 days.
- **7.10.2.4.** <u>Temporary Irrigation</u>. Permittee shall use temporary irrigation only if deemed necessary through consultation with CDFW. If approved, Permittee shall only use temporary irrigation during the first year of establishment. Permittee shall connect temporary irrigation to a water source only while irrigation is in use to discourage the invasion of Argentine ants. Temporary irrigation shall not be on a timer system nor connected to a permanent water source.
- **7.10.2.5.** Argentine Ant (*Linepithema humile*) Monitoring and Prevention Plan. Permittee shall develop a plan to monitor for the presence of Argentine ant workers and/or nest sites. Inspection of all nursery plant material should also occur before to ensure it is Argentine ant free prior to transporting onsite. A subset of nursery plants should be submerged in water to help detect a subterranean infestation. The plan should include detection methodology and eradication methods if Argentine ants are found within the Project Area.
- **7.10.2.6.** Pesticides. Permittee shall not use pesticides unless approved in advance in writing by CDFW (see Condition of Approval 7.8 and 7.9).
- **7.10.2.7.** Monitoring and Maintenance. Permittee shall monitor and maintain restoration and enhancement areas for a period of 5 years or until performance standards have been met, whichever is longer. During the installation phase, Permittee shall perform periodic maintenance in the form of weeding with hand-tools, replacement of failed plantings, repair of plant protection, and/or irrigation components as needed. Permittee shall start the 5-year monitoring period only after all weeding, watering, replanting of dead plants, and reseeding efforts

during the installation phase have stopped for at least one year, and the area has become self-sustaining. Replacement of dead plants, replanting, or reseeding area shall reset the clock to year 1 of the minimum 5-year monitoring period. Replacement plantings shall be monitored with the same survival and growth requirements for three years after planting.

- **7.10.2.8.** Performance Standards. Permittee shall meet the following performance standards, at a minimum, in order for restoration and enhancement to be considered successful: (1) provide continuous cover and variety of blooming plants during the Covered Species Active Season (February 1 - October 31); (2) no more than 5 percent deviation of cover by vegetation class (herb, forbs, grass, vines, sub-shrubs, shrubs, trees, annual, and perennial) from CDFW-approved reference site(s); (2) vegetation in each restoration and enhancement area consists of less than five percent of species designated as high, moderate, watch, or limited invasive plants in Cal-IPC's <u>Invasive Plant Inventory</u>; and (3) species richness, diversity, abundance, frequency/density within each restoration and enhancement area are roughly proportionate to that of the reference sites. Permittee is responsible for replacement planting, additional watering, weeding, invasive plant eradication, or any other practice necessary if the performance standards are not being met. Success should not be determined until the site has been irrigation-free for at least 5 years and the metrics for success have remained stable (no negative trend for richness/diversity/abundance/cover and no positive trend for invasive/non-native cover for each vegetation layer) for at least 5 years.
- **7.10.3.** <u>As-Built Report</u>. Permittee shall submit an As-Built Report to CDFW within three months following restoration and enhancement activities. Permittee shall detail the plant list, species abundance and diversity by vegetation layers, vegetation establishment, percent invasive plant cover with species list, and other relevant observations regarding installation activities.
- **7.10.4.** Annual Reports and Monitoring. Permittee shall submit annual reports to CDFW documenting restoration and enhancement activities no later than January 31 of every year until performance standards have been met or until CDFW determines Annual Reports are no longer required.
 - **7.10.4.1.** Photo Stations. Permittee shall photograph restoration and enhancement areas at least four times per year in February, April, May, and July to document changes in plant cover over time, with a particular focus on percentage and composition of nectar and pollen resources in bloom. Permittee shall provide photographs in the Annual Report.

- **7.10.4.2.** Covered Species Surveys. Permittee shall monitor for the Covered Species following the Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species and shall survey at least three times per year during the Colony Active Period (February 1 through August 31) concurrent with monitoring of restoration and enhancement areas. Permittee shall provide survey results and photographs of any Covered Species and bumble bees observed in the Annual Report.
- 8. Habitat Management Land Acquisition and Restoration: CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall provide for the permanent protection and perpetual management of 14.9 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.3 below. 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 10 below for all uncompleted obligations. The Permittee shall also restore and enhance 14.9 acres of habitat for the Covered Species pursuant to Condition of Approval 8.5 below.

- 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 8.2 below, estimated at \$6,500 acre for 14.9 acres: \$96,850. Land acquisitions 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 Condition of Approval 8.2.1 and 8.2.2 below: \$17,440;
 - **8.1.3.** Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.2.6 below, estimated at \$50,318;
 - **8.1.4.** Interim management period funding as described in Condition of Approval 8.2.7 below, estimated at \$65,433;

- **8.1.5.** Long-term management funding as described in Condition of Approval 8.3 below, estimated at \$38,460/acre for 14.9 acres: **\$573,054** 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 8.4 below, estimated at **\$6,000**.
- **8.1.7.** Restoration of Covered Species habitat as described in Condition of Approval 8.5, calculated at \$20,651/acre for 14.9 acres: **\$307,700**.
- **8.1.8.** All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work **\$75,000**.
- **8.2.** <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:
 - **8.2.1.** 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.
 - 8.2.2. 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.

- **8.2.3.** <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;
- **8.2.4.** 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;
- 8.2.5. 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.
- 8.2.6. 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 (see https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&inline) (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;
- **8.2.7.** <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, floral resource (nectar and pollen) and overwintering/nesting habitat establishment, floral resource protection, floral resource monitoring, floral resource maintenance, potential remedial measures and costs, Covered Species surveys, and trespass management.

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

8.3. Endowment Fund. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 8.2.6. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

8.3.1. <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.

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).

- 8.3.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare 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 of the results of the endowment assessment before transferring funds to the Endowment Manager.
 - **8.3.2.1.** <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.
 - **8.3.2.2.** 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:

- 8.3.2.2.1 <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.
- 8.3.2.2.2 <u>Three Years Delayed Spending</u>. The endowment shall be established assuming spending will not occur for the first three years after full funding.
- 8.3.2.2.3 <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.
- **8.3.3.** <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.
- **8.3.4.** 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.

8.4. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related

title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

- 8.5. <u>Habitat Restoration and Enhancement on Baron Ranch</u>. Permittee shall restore a 10.4-acre site that was previously an avocado orchard with native habitat and enhance a 4.5-acre site with native habitat for a total of 14.9 acres (see Figure 3). Permittee shall prepare a Baron Ranch Restoration Plan for CDFW's review and approval at least 90 days prior to the start of restoration and enhancement activities. The Baron Ranch Restoration Plan shall be consistent with requirements under Condition of Approval 7.10.1 through 7.10.4 and shall include a map showing the final perimeter of the restoration and enhancement areas.
- **9. Security:** The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:
 - 9.1. Security Amount. The Security shall be in the amount of \$1,191,795 or in the amount identified in Condition of Approval 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 8.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.
 - **9.2.** <u>Security Form.</u> The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
 - **9.3.** <u>Security Timeline.</u> The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
 - **9.4.** Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
 - **9.5.** <u>Security Transmittal</u>. Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.
 - **9.6.** <u>Security Drawing</u>. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
 - **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:

- Written documentation of the acquisition of the HM lands;
- Copies of all executed and recorded conservation easements;
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment;
- Satisfactory demonstration of completion of performance standards for restoration and enhancement areas; 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 (2081-2024-007-05) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Erinn Wilson-Olgin, Regional Manager California Department of Fish and Wildlife South Coast Region 5 Attn: CESA Permitting Program 3883 Ruffin Road San Diego, CA 92123 R5CESA@wildlife.ca.gov

and a copy to:

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

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

Kelly Schmoker California Department of Fish and Wildlife South Coast Region 5 3883 Ruffin Road

San Diego, CA 92123 (626) 848-8382 Kelly.Schmoker@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, Santa Barbara County Public Works Department Resource Recovery and Waste Management Division. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Tajiguas Landfill Capacity Increase Project Subsequent EIR, (SCH No.: 2023030563) dated September 26, 2023, that the Santa Barbara County Public Works Department Resource Recovery and Waste Management Division certified for the Tajiguas Landfill Capacity Increase Project on March 19, 2024. At the time the lead agency certified the Subsequent 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 Subsequent EIR for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

XIV. Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Tajiguas Landfill Capacity Increase Project Subsequent EIR, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

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

- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 14.9 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

XV. Attachments:

FIGURE 1 Regional Location Map
FIGURE 2 Tajiguas Landfill Site Map

FIGURE 3 Baron Ranch Mitigation Sites and Temporary Impacts

Incidental Take Permit No. 2081-2024-007-05 **Restoration Location**

FIGURE 4 Tajiguas Landfill Expansion Area FIGURE 5 Tajiguas Landfill Expansion Area

FIGURE 6 Tajiguas Landfill North Sedimentation Basin Expansion Area

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 [08/19/2024]

DocuSigned by:

Erinn Wilson-Olgin Regional Manager South Coast Region