



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

California Endangered Species Act
Incidental Take Permit No. 2081-2021-008-04
(Amendment No. 1)

STATE ROUTE 41 RANCHOS REHABILITATION PROJECT

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 CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

Permittee:	California Department of Transportation (Caltrans)
Principal Officer:	Dena Gonzalez, Biology Branch Chief
Contact Person:	Dane Dettloff (559) 445-6406
Mailing Address:	2015 East Shields Avenue, Suite A-100 Fresno, California 93726

Amended ITP³ Background:

On July 19, 2024, CDFW received a request from the Permittee for a minor amendment to the original ITP and the corresponding fee payment. The request was to extend the mitigation date and the permit expiration date by 36 months to October 23, 2027, to allow enough time for the Permittee to satisfy the compensatory mitigation requirement. CDFW has determined that additional time may be necessary to complete the Final Mitigation Report requirement of the ITP and therefore has extended the permit expiration date to January 31, 2028. CDFW finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4). Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this amendment increase other Project impacts on the Covered Species (i.e., “impacts of taking” as used in Fish and Game Code Section 2081, subd. (b)(2)). Issuance of this Amendment does not affect CDFW’s previous determination that issuance of

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.

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

the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

CDFW now reissues the ITP. The amended ITP includes all of the operative provisions as of the effective date of this amended ITP. Attachment 5 to this amended ITP shows the specific red-line changes made to the ITP as a result of this minor amendment.

Effective Date and Expiration Date of this ITP:

The original ITP was effective on the date signed by CDFW, which was December 23, 2021. This remains the effective date for the original take authorization. The Amended ITP shall be executed in the same manner and shall become effective when signed by CDFW. Unless renewed by CDFW, this ITP's authorization to take the Covered Species (defined below) shall expire on **January 31, 2028**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 7.8 of this ITP.

Project Location:

In general, the State Route 41 Ranchos Rehab Project (**Project**) will occur along State Route 41 between post mile 6.3 and post mile 9.2 (**Project Area**).

- Between post mile 6.3 and 6.5 the Project Area measures approximately 120 feet wide and constitutes the existing right-of-way;
- Between post mile 6.5 and post mile 9.0 the Project Area measures approximately 140 feet wide and constitutes the existing 60-foot wide right-of-way plus approximately 60 feet of newly acquired right-of-way (30 feet on each side of the existing right-of-way) plus a 20-foot wide temporary construction easement adjoining the newly acquired right-of-way west of the existing right-of-way; and
- Between post mile 9.0 and post mile 9.2 the Project Area measures approximately 100 feet wide and constitutes the existing right-of-way. Additionally, at post mile 9.2, the Project Area includes the 150-foot by 150-foot triangular areas immediately northeast and northwest of the intersection.

The 2.9-mile long **Project Area** exists within Sections 4, 9, and 16 of Township 11 South, Range 20 East, Mount Diablo Baseline and Meridian. The Project Area can be found on the *Lanes Bridge* and *Little Table Mountain, California* 7.5-minute United States Geological Survey (USGS) topographic map quadrangles.

Project Description:

The Project involves widening and elevating the State Route 41 roadway between post mile 6.5 and post mile 9.0 to correct non-standard shoulder widths, flooding potential, and line of sight issues. To accomplish this, Permittee will first: acquire new right-of-way adjoining both sides of the existing right-of-way between these points; obtain permission to encroach under a temporary construction easement adjoining the newly acquired right-of-way west of the existing right-of-way between these points; and begin the prerequisite archaeological dig work, utility relocation work, construction of a temporary detour roadway, and complete some of the culvert extension work between these points. Once this work is done, Permittee will begin the roadway widening and elevation work between these points. Between post mile 6.3 and post mile 6.5, the Project-related activities will be limited to staging, and between post mile 9.0 and post mile 9.2, the Project related activities will be limited to staging and the removal of accumulated sediments and debris from two existing culverts. The **Covered Activities** required to accomplish the Project are detailed below.

Utility Relocation

Above ground electrical lines and underground fiber optic lines exist within the State Route 41 right-of-way, west of the paved roadway between post mile 6.5 and 9.0. The timber poles supporting the aboveground electrical lines will be excavated and new poles will be installed within the newly acquired right-of-way, west of their current location. This work will involve drilling new holes, placing the new poles, and backfilling the holes left by the removal of the existing holes.

The underground lines will be excavated and relocated west of their current location, beyond the newly acquired right-of-way. This work will involve excavation of a trench to expose the lines, removal of the lines, and excavation of a trench for their relocation of lines within the temporary construction easement. This work will involve trenching through the ten streams which cross the right-of-way between these points and efforts to compact and contour the placed soils to mimic pre-Project conditions within each of the ten streams, as is required under the associated Lake and Streambed Alteration Agreement (Condition of Approval 3, below).

Archaeological Data Recovery

Exploratory trenches and pits will be excavated for the purpose of archaeological data recovery. This excavation work will occur over a 0.6-acre area within the existing and newly acquired right-of-way east of the roadway at about post mile 8.2. In an effort to preserve the seed bank in this area, surface soils in the dig areas will be collected prior to excavation, and will be stockpiled and redistributed over the same areas after excavation and backfilling activities are complete. Excavated soils will be stockpiled on sheet plastic in the vicinity of the excavation work and will be used to backfill all excavations. None of the exploratory excavation work will occur in the nearby streams.

Culvert Work

Twelve streams are conveyed across the State Route 41 right-of-way through culverts. To accommodate the widened and elevated roadway between post mile 6.5 and post mile 9.0, six of the culverts will be replaced with longer culverts, and four of the culverts will be extended. An additional two culverts between post mile 9.0 and post mile 9.2 will be cleaned of accumulated sediments and debris. Three additional culverts that convey stormwater from one side of the roadway to the other will also be extended.

Temporary Detour Road

Between post mile 6.5 and post mile 9.0, Permittee will construct a temporary asphalt paved two-lane detour road west of the existing roadway. This 32-foot wide paved roadway will accommodate two 12-foot wide travel lanes flanked by four feet of hard shoulder beyond each. Post-construction, this temporary detour road will be removed, ground up, and used as cover for the permanent earthen shoulder backing on each side of the new State Route 41 roadway.

Roadway Demolition, Profile Modification, and Roadway Reconstruction Rehabilitation

Along the entire 2.9-mile long right-of-way between post mile 6.3 and post mile 9.2, portions of the roadway will be demolished, raised, and replaced, while other portions will be overlain with new pavement, while other portions not rehabilitated in any way.

Between post mile 7.2 and post mile 8.1, Permittee will demolish the existing roadway (travel lanes and hard shoulder), place engineered fill to raise and flatten the profile and support wider hard shoulders and create new shoulder backing and repave the travel lanes and hard shoulder with asphaltic concrete pavement. Along this portion, the shoulder backing will be paved with aggregate and/or ground up pavement.

Between post mile 6.5 and post mile 7.2, and between post mile 8.1 and post mile 9.0, Permittee will place engineered fill to support wider hard shoulder and new shoulder backing beyond the wider hard shoulder, then overlay new asphaltic concrete pavement over the existing roadway and wider hard shoulder. Along this portion, the shoulder backing will be paved with aggregate and/or ground up pavement.

Between post mile 6.3 and post mile 6.5, and between post mile 9.0 and post mile 9.2, no work will occur within the right-of-way. However, Permittee will use the shoulder backing and ruderal areas beyond the shoulder backing along these portions of the Project Area for staging, parking, and laydown. This includes the northwest and northeast quadrants of right-of-way formed by the intersection of State Route 41 and State Route 145 (the north end of the Project Area). Permittee will avoid the southeast quadrant formed by the intersection and will be unable to use the paved park-and-ride area constituting the southwest quadrant formed by the intersection.

Installation of New Right of Way Fence

After completion of the roadway widening activities, a new barbed-wire fence will be installed delimiting the 120-foot wide permanently widened right-of-way between post mile 6.5 and post mile 9.0. The fence posts will consist of T-posts at the limits of the right-of-way.

The Project related activities will involve the removal of vegetation, however they will not involve the removal of mature woody vegetation greater than four inches in diameter at breast height.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
California tiger salamander (<i>Ambystoma californiense</i>) (CTS)	Threatened ⁴

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

Impacts of the Taking on Covered Species:

The 2.9-mile long segment of State Route 41 which constitutes the Project Area is bound by occupied Covered Species habitat on both the east and west. The Covered Activities could result in incidental take of individuals of the Covered Species over the entire Project Area.

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur within the Project Area in association with the collapse or excavation of occupied burrows that result in crushing or suffocation of underground individuals during cut/fill, grading, compaction, and staging; entombment of individuals from deposition of stockpiled material or spoils over occupied burrows and during vegetation removal, top soil work, or soil compaction; entrapment and burial within excavations or trenches; crushing by equipment; vehicle strikes due to increased Project-related traffic; and predation as a result of artificial light use. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursuit and/or capture through: entrapment in holes or open trenches; uncovering individuals during the excavation of burrow systems; corralling individuals into a confined area when exclusion fencing is constructed around the Project Area; and when individuals of the Covered Species are captured, collected, and relocated out of harm's way as required by this ITP.

Beyond the edge of pavement and engineered shoulder backing, the Project Area encompasses suitable Covered Species habitat including upland habitat within 1.3 miles of several known and potential breeding pools, and small areas of aquatic habitat which provide for foraging and dispersion. This aquatic habitat includes vernal swales, streams, and small shallow vernal pools entirely within, or partially within and partially outside the Project Area.

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

The Project is expected to result in the **permanent** loss of up to 8.201 acres of upland habitat, and **temporary** impacts of up to 19.909 acres of upland habitat for the Covered Species. In total, Covered Activities will result in the disturbance over approximately 28.1 acres of Covered Species habitat (see Figure 1 - CTS Habitat Impacts Map).

Impacts of the authorized taking also includes adverse impacts to the Covered Species related to temporal losses, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts to the Covered Species include: noise and vibrations from trenching, excavation, heavy equipment operation, and increased traffic; stress from capture and relocation; stress through disorientation due to artificial lighting; loss of foraging opportunities; and loss of breeding and burrowing habitat used for shelter, reproduction, and escape cover; and long-term effects due to increased pollution; displacement from preferred habitat; increased competition for food and space, introduction or spread of invasive species; changes in drainage patterns that favor different vegetative growth; and increased vulnerability to predation.

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 within the Project Area, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species, except for capture and relocation of Covered Species as authorized by this ITP.

Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area. CDFW’s issuance of this ITP and Permittee’s authorization to take the Covered Species are subject to Permittee’s compliance with and implementation of the following Conditions of Approval:

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration and Initial Study (SCH No.: 2020019068) adopted by California Department of Transportation on 13 May 2020 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The Mitigated Negative Declaration was revalidated by the lead agency in

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October 2021 through the preparation of an addendum to the supporting Natural Environment Study.

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 MAD-18625-R4**) executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the May 21, 2020 Biological Opinion with Incidental Take Statement for the Project (Service File No. 08ESMF00-2018-F-1648-1) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
6. **General Provisions:**
 - 6.1 **Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 6.2 **Designated Biologist.** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting, and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individuals of the Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist must be changed. The

Designated Biologist(s) may be assisted by approved biologists identified as Biological Monitors that do not meet the qualifications to be a Designated Biologist. Biological Monitors and their activities shall be approved in advance and in writing by CDFW.

- 6.3** Designated Biologist and Biological Monitor Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist(s) and Biological Monitor(s) shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure(s) to avoid the unauthorized take of an individual of the Covered Species.
- 6.4** Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before commencing Covered Activities. The program shall consist of a presentation by the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 6.5** Operation Monitoring Notebook. The Designated Biologist shall maintain an operation-monitoring notebook at the Project Area. The operation-monitoring notebook 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 operation-monitoring notebook is available for review at the Project Area upon request by CDFW.
- 6.6** Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs. Upon completion of the Project, Caltrans shall remove and properly dispose of all construction

refuse including broken equipment parts, wrapping material, cords, cables, wire, rope, strapping twine buckets, metal or plastic containers, and boxes.

- 6.7** Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring for the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 6.8** Erosion Control Materials. Permittee shall prohibit the Project-related use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material.
- 6.9** Delineation of the Project Area. Before initiating Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area. The boundary of the Project Area shall be delineated with stakes and/or flags and shall be maintained with signage for the life of the Project.
- 6.10** Project Area Access. Project-related personnel shall access the Project Area from the State Route 41 roadway and shall not cross Covered Species' habitat outside of the Project Area. Permittee shall restrict Project-related vehicle traffic, staging, and parking to the Project Area. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.11** Precipitation. The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 50 percent or greater chance of rainfall is predicted within 72 hours, or if rainfall commences with a less than 50 percent chance predicted, Permittee shall cease all Covered Activities in all portions of the Project Area where Conditions of Approval 8.3 and 8.4 are not yet completed until a zero percent chance of rain is forecast. Work may continue 24 hours after the rain ceases and there is zero percent chance of precipitation in the 72-hour forecast.
- 6.12** Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent State and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous material leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall properly contain and dispose of any hazardous wastes produced within the Project Area.

6.13 CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project Area and shall otherwise fully cooperate with CDFW's efforts to verify compliance with, or effectiveness of, the take minimization measures set forth in this ITP.

7. Monitoring, Notification and Reporting Provisions:

7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before initiating Covered Activities and shall document compliance with all pre-Project Conditions of Approval set forth in this ITP.

7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.

7.3. Compliance Monitoring. The Designated Biologist(s) shall be at the Project Area daily until the pre-activity clearance survey (Condition of Approval 8.1); burrow/crevice flagging and excavation (Conditions of Approval 8.2 and 8.3); exclusion fence installation (Conditions of Approval 8.4); and initial grading activities are complete. The Designated Biologist(s) 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 at the Project Area. The Designated Representative or Designated Biologist(s) shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.

7.4. Covered Species Mortality Reduction and Relocation Plan. Prior to initiating Covered Activities, the Designated Biologist(s) shall prepare and submit to CDFW for written approval, a *Covered Species Mortality Reduction and Relocation Plan (Plan)*. The Plan shall include, but not be limited to: a discussion of the surveys, burrow and crevice excavation, capture, handling, and relocation of individuals of the Covered Species at the Project Area; specifications of the fencing which will be installed to exclude the Covered Species from the Project Area; details regarding the use of coverboards which will be employed accessory to the exclusion fencing; identification of where the salvaged individuals will be relocated to; and identification of a wildlife rehabilitation center or veterinary

facility where injured individuals of the Covered Species will be taken. The Plan should also provide Permittee's plan to respond to an atypical detection of individual(s) of the Covered Species. The Plan must specify that only the approved Designated Biologist(s) is/are authorized to capture and handle individuals of the Covered Species.

- 7.5. Quarterly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each minimization measure. Quarterly Compliance Reports shall be submitted to the CDFW before the 15th day of the month that it is due to the offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative, Regional Office and Headquarters CESA Program. The first Quarterly Compliance Report will be due no later than November 15th, 2021, or three months after Covered Activities have commenced. At the time of this ITP's approval, the CDFW Regional Representative is Adam Thompson (Adam.Thompson@wildlife.ca.gov), the regional office email is RRR.R4@wildlife.ca.gov, and the 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.
- 7.6. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.5; (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 minimization measure/mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; and (6) information about other Project impacts on the Covered Species.
- 7.7. CNDDDB Observations.** The Designated Biologist shall submit all observations of individuals of the Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the

Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first after the observation.

- 7.8. Final Mitigation Report.** Permittee shall provide CDFW with a Final Mitigation Report no more than 45 days after the expiration of the ITP. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the minimization measure/mitigation measure was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project-related 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-related impacts of the taking on Covered Species; (7) recommendations on how minimization measures/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. If this ITP is amended to extend the term, the Final Mitigation Report would be deliverable under the ITP, as amended.
- 7.9. 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 an individual of the Covered Species is otherwise found dead or injured at or within the vicinity of the Project Area. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. 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, a photograph and explanation of the cause of take or injury, and any other pertinent information.

8. Take Minimization Measures:

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

- 8.1. Pre-Activity Clearance Surveys and Reporting.** Prior to initiating Covered Activities, the Designated Biologist shall survey the Project Area for individuals of the Covered Species. These surveys shall provide 100 percent visual coverage of

the Project Area including burrow and crevice openings. If individuals of the Covered Species are found, the Designated Biologist(s) shall relocate them from the Project Area in accordance with the CDFW-approved Plan (Condition of Approval 7.4). Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities.

- 8.2. Flag and Map Burrows/Crevice.** During the Pre-Activity Clearance Surveys, the Designated Biologist shall flag and map locations of all animal burrows and crevices suitable for Covered Species occupancy at and within 50 feet (if adjoining lands are accessible) of the Project Area, which could potentially harbor individuals of the Covered Species. The mapped locations of all animal burrows and crevices suitable for Covered Species occupancy shall be submitted with the Pre-Activity Clearance Survey and Reporting (Condition of Approval 8.1).
- 8.3. Animal Burrow and Crevice Excavation.** Those animal burrows and crevices identified within the Project Area during the Pre-Activity Clearance Surveys (Condition of Approval 8.1) and flagged (Condition of Approval 8.2) shall be fully excavated under the direct supervision of the Designated Biologist(s) in accordance with the CDFW-approved Plan (Condition of Approval 7.4). Individuals of the Covered Species which are found shall be relocated by the Designated Biologist in accordance with the CDFW-approved Plan. Excavation shall occur no more than 14 days after the completion of the Pre-Activity Clearance Surveys.

Burrows and crevices identified outside of, but within 50 feet of the Project Area where ground disturbance will occur shall be similarly excavated if those lands are accessible to Permittee. Burrows and crevices outside of, but within 50 feet of the Project Area where only staging, parking, or laydown will occur need not be excavated. Individuals of the Covered Species which are found shall be similarly relocated by the Designated Biologist in accordance with the CDFW-approved Plan. Excavation of these burrows and crevices shall also occur no more than 14 days after the completion of the Pre-Activity Clearance Surveys.

- 8.4. Covered Species Exclusion Fencing.** After surveying, flagging, and excavating burrows and crevices in accordance with Conditions of Approval 8.1, 8.2, and 8.3 above, exclusion fencing (with cover boards) shall be installed to prevent individuals of the Covered Species from migrating into the cleared Project Area. The Covered Species exclusion fencing shall be installed in accordance with the CDFW-approved Plan (Condition of Approval 7.4). The exclusion fence shall be installed no later than 48 hours **after** the burrow and crevice excavation/salvage work is completed. Permittee shall also avoid animal burrows and crevices outside but within 50 feet of the cleared Project Area to the maximum extent

possible during the installation of the exclusion fencing if it involves shallow trenching or driving stakes. When animal burrows and crevices outside the cleared Project Area cannot be avoided by a 50-foot no-disturbance buffer, they shall be excavated as described in Condition of Approval 8.3 above prior to commencing fence installation.

- 8.5. Covered Species Observations.** During all Covered Activities, workers shall inform the Designated Biologist(s) if an individual of the Covered Species is observed at the Project Area. All work in the vicinity of the observed Covered Species, which could injure or kill the animal, shall cease immediately until the Designated Biologist(s) can relocate the Covered Species following the CDFW-approved Plan (Condition of Approval 7.4).
- 8.6. Covered Species Record of Observations and Handling.** All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the Covered Species; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 7.7. This information should also be included in the Quarterly Compliance Report and Annual Status Report.
- 8.7. Soil Stockpiles.** Permittee shall ensure that soil stockpiles are placed where soil cannot pass into “Waters of the State,” including the 12 streams which traverses the Project Area, in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion and discharge from the Project Area.
- 8.8. Barriers to Covered Species Movement.** The new roadway shall be constructed without steep curbs, berms, or dikes which prevent Covered Species from crossing the roadway. If curbs are necessary for safety and/or surface runoff, Permittee shall design and construct them as rounded or gently sloping structures as to allow Covered Species to walk over them. If steep dikes are required, design shall include over-site drains or curb/dike breaks spaced at intervals of 25 feet to allow Covered Species passage.
- 8.9. Fieldwork Code of Practice.** To ensure that disease is not conveyed to and from the Project Area by the Designated Biologist(s) or Designated Monitors(s), the fieldwork code of practice developed by the *Declining Amphibian Populations Task Force Fieldwork Code of Practice* (see Attachment 2) shall be followed at all

times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.

- 8.10. Open Trenches and Excavations.** Biological Monitor(s) shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day (including weekends and any other non-work days) for trapped individuals of the Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope, and the worker(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. Worker(s) shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are backfilled. If any Biological Monitor or worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately. Biological Monitor(s), Project workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist(s) shall capture and relocate the Covered Species as per the CDFW-approved Plan (Condition of Approval 7.4).
- 8.11. Equipment Inspection.** Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist 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(s) shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the CDFW-approved Plan (Condition of Approval 7.4).
- 8.12. Materials Inspection.** Workers shall thoroughly inspect all construction pipe, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the Covered Species before the object is subsequently moved, buried, or capped. If during inspection, an

individual of the Covered Species is discovered inside a pipe, culvert, or similar structure, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the CDFW-approved Plan (Condition of Approval 7.4).

- 8.13. Covered Species Injury.** If an individual of the Covered Species is injured as a result of Covered Activities, the Designated Biologist(s) shall immediately take it to the CDFW-approved wildlife rehabilitation or veterinary facility that routinely evaluates and treats amphibians. As required in Condition of Approval 7.4, Permittee shall identify the facility prior to the start of 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 unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. Notification to CDFW shall be via telephone or e-mail, followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was treated.
- 8.14. Herbicide Use.** Permittee shall ensure that all herbicide use (mixing, application, and clean-up) is done by a licensed applicator in accordance with all applicable State, federal, and local regulations. Permittee shall only apply herbicide sprays via ground application when wind speed measures less than 3 miles per hour. Permittee shall ensure that great care is taken to avoid herbicide outside the boundaries of the Project Area. All herbicide sprays utilized within the Project Area shall contain a dye to prevent overspray.
- 8.15. Avoid Introduction of Herbicides into Waters.** Permittee shall ensure herbicide mixing occurs within the Project Area where there is no potential of a spill reaching waters at and near the Project Area. Permittee shall ensure that any herbicide used where there is the possibility that the herbicide could come into direct contact with water is approved for use in an aquatic environment.
- 8.16. Night Work.** The Project will require Covered Activities to be performed at night. Only in Project areas where Condition of Approval 8.3 and 8.4 are completed is night work allowed, totaling 90 nights of work. Nightwork shall not involve the use of permanent or temporary, fixed, exterior lighting, including motion-triggered security lighting, that casts light into Covered Species habitat beyond the footprint of the Project Area. If additional minimal nights of work are required, Permittee shall obtain written approval from CDFW prior to continuing or initiating that work. The number of nights worked shall be documented in the monthly report. The monthly documentation shall include (1) the number of nights that work occurred

for the month that the report covers and, (2) provide a cumulative tabulation of the total number of nights worked since Project initiation.

9. Habitat Management Land Acquisition:

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

To meet this requirement, Permittee will purchase 38.3 credits from a CDFW-approved mitigation or conservation bank with a service area encompassing the Project Area **OR** provide for both the permanent protection and perpetual management of 38.3 acres of Habitat Management (HM) lands, pursuant to Condition of Approval 9.3, below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4, below. The credit purchase **OR** permanent protection and funding of perpetual management of HM lands must be complete before starting Covered Activities, **OR** by October 23, 2027 if Security is provided pursuant to Condition of Approval 10, below.

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

- 9.1.1 Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$11,051.90/acre for **38.3** acres: **\$423,287.77**. Land acquisition costs are estimated using current and local fair market values for lands with habitat values meeting mitigation requirements and include real estate and escrow fees.
- 9.1.2 Start-up costs for HM lands, including initial site protection and enhancement cost as described in Condition of Approval 9.3.5 below, estimated at **\$59,602.71**.
- 9.1.3 Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at **\$175,604.77**.
- 9.1.4 Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$27,079.11/acre for 38.3 acres: **\$1,037,130.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

9.1.5 Related transaction fees including but not limited to account set-up fees, administrative fees, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at **\$12,000.00**.

9.2 Covered Species Credits. Permittee shall purchase at least 38.3 Covered Species credits from a CDFW-approved conservation bank with a service area that encompasses the Project Area and provide proof of credit purchase to CDFW by October 23, 2027 if Security is provided pursuant to Condition of Approval 10;

OR:

9.3 Habitat Acquisition and Protection. Permittee shall provide for the permanent protection and perpetual management of at least 38.3 acres of HM lands to complete compensatory mitigation obligations by October 23, 2027. If Security is provided pursuant to Condition of Approval 10, Permittee shall:

9.3.1 Fee Title/Conservation Easement. 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. 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 does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);

9.3.2 HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least one month before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 3A) identifying the

land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on the Covered Species;

- 9.3.3 HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see checklist presented as Attachment 3B). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 9.3.4 Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;
- 9.3.5 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://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates>) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 9.3.6 Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the

minimum of three years of interim management that the landowner, 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.

- 9.4** Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, 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 provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s). Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

- 9.4.1** Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to

Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager’s certification pursuant to Government Code section 65968(e). Within thirty days of CDFW’s receipt of Permittee’s written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).

9.4.2 Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter “PAR”) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

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

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

9.4.2.2.1 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

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

9.4.2.2.3 Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year

of anticipated need or upon request to Endowment Manager and CDFW.

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

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

10. Performance Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

10.1. Security Amount. The Security shall be in the amount of **\$1,707,625.25**. This amount is based on CDFW's estimate of the cost to purchase 38.3 Covered Species credits, **or** the cost to acquire, permanently conserve, and perpetually manage 38.3 acres of Covered Species habitat (Condition of Approval 9.1, above) in the event credits are not available at a CDFW-approved mitigation or conservation bank.

10.2. Security Form. The Security shall be transmitted to CDFW in a form approved in advance and in writing by CDFW's Office of the General Counsel.

10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin.

10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.

10.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4)

or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.

- 10.6. Security Drawing.** The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release.** The Security (or any portion of the Security then remaining) shall be released to the Permittee after: CDFW has received a bill of sale evidencing the purchase of the 38.3 Covered Species credits, or in the event HM lands are acquired, 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; and
 - Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required credit purchase or acquisition, protection and transfer of all HM lands and record any required conservation easements no later than October 23, 2027. CDFW may require the Permittee purchase additional credits or purchase additional HM lands and/or provide 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.

Amendment:

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

Stop-Work Order:

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work

order issued to Permittee for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

Compliance with Other Laws:

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

Notices:

The Permittee shall deliver a fully executed duplicate original ITP by registered first class mail or overnight delivery to the following address:

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

Alternatively, the Permittee shall email the digitally signed ITP to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5.

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2021-008-04) 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
Telephone (559) 243-4014
R4CESA@wildlife.ca.gov

Incidental Take Permit
No. 2081-2021-008-04 (Amendment No. 1)
CALIFORNIA DEPARTMENT OF TRANSPORTATION
STATE ROUTE 41 RANCHOS REHABILITATION PROJECT

and a copy to:

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

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

Adam Thompson
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 801-1915
Adam.Thompson@wildlife.ca.gov

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, California Department of Transportation. (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Ranchos Rehabilitation Project Initial Study with Mitigated Negative Declaration (SCH No. 2020019068) that the lead agency adopted for the Project on 13 May 2020 and an addendum to the supporting Natural Environment Study approved in conducted in October 2021. 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. None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment.

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP Application, the Initial Study/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:

- (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) implementation of a CDFW-approved Mortality Reduction and Relocation Plan; (3) worker education; and (4) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW’s estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the purchase of at least 38.3 Covered Species credits from a CDFW-approved mitigation or conservation bank, or the permanent conservation and long-term management of 38.3 acres of Covered Species Habitat Management Lands, along with the minimization, monitoring, and reporting 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;

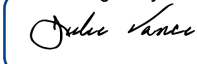
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the 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.

Attachments:

FIGURE 1	CTS Habitat Impacts Map (11 sheets)
ATTACHMENT 1	Mitigation Monitoring and Reporting Program (MMRP)
ATTACHMENT 2	<i>Declining Amphibian Populations Task Force Fieldwork Code of Practice</i>
ATTACHMENT 3A	Proposed Lands for Acquisition Form
ATTACHMENT 3B	Habitat Management Lands Checklist
ATTACHMENT 4	Mitigation Payment Transmittal Form
ATTACHMENT 5	Amendment 1 with Track Changes

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 9/18/2024

DocuSigned by:

 FA83F00FE08045A...
 Julie A. Vance, Regional Manager
 Central Region

Incidental Take Permit
 No. 2081-2021-008-04 (Amendment No. 1)
CALIFORNIA DEPARTMENT OF TRANSPORTATION
STATE ROUTE 41 RANCHOS REHABILITATION PROJECT