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

California Endangered Species Act
Incidental Take Permit No. 2081-2023-017-02

YUBA CITY WASTEWATER TREATMENT FACILITY OUTFALL AND DIFFUSER 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 take[1] 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:	**City of Yuba City, Public Works Department**
Principal Officer:	**Katherine Willis, Environmental Compliance Manager**
Contact Person:	**Neil Nikirk, Jacobs Engineering Group Inc.**
Mailing Address:	**302 Burns Drive** **Yuba City, CA 95991**

II. Effective Date and Expiration Date of this ITP:

This ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **December 31, 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 7.7 of this ITP.

[1] 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.

III. Project Location:
The Yuba City Wastewater Treatment Facility Outfall and Diffuser (Project) is located in unincorporated Sutter County, California, approximately 5 miles south of Yuba City in the Feather River. The project is located within the U.S. Geological Survey (USGS) 7.5-minute Olivehurst quadrangle in Township 14 North, Range 03 East, Section 11, Mount Diablo Meridian at approximately latitude 39.07015, longitude -121.606381 (See Figure 1).

IV. Project Description:
The project is limited to replacing an existing, damaged, wastewater outfall and diffuser by constructing a new outfall and diffuser. The existing diffuser will be abandoned in place, with the new diffuser located downstream of Shanghai Falls. The project will include modification of existing effluent pumps and new surge control systems; a bifurcation station and flow meter at the connection to the existing outfall pipeline; approximately two miles of new outfall pipeline (e.g.; on Garden Highway); a vacuum-assisted siphon priming system at the levee crossing; a new diffuser structure consisting of 180 feet of new 36-inch welded steel pipe buried within the Feather River, with sixteen 12-inch diameter risers with ports extending above the riverbed; a new permanent access ramp along the Feather River west levee; new power connections to the bifurcation station and vacuum-assisted siphon building (see Figure 2).

The outfall pipeline trench on the river shoreline bench and slope will be excavated to the required depth for connection with the new diffuser. Excavated shoreline materials will be stockpiled for use in slope restoration. The area around the outfall pipe to the diffuser connection will be dewatered during construction. Steel sheet piles will be installed by crane, into the river shoreline bench using a combination of vibratory methods and an impact hammer and the newly enclosed area will be dewatered using shallow pumping wells screened per current fish screening criteria.

A temporary work trestle will be constructed and extend from the west shore to near the eastern shoreline. Installation of the river diffuser will involve in-water work being performed from land, divers, and from the temporary trestle. Utilizing the temporary trestle, a trench will be excavated from the shore into the river. Steel pipe piles to support and anchor the diffuser will be installed using a combination of vibratory methods and an impact hammer. Using a crane, the diffuser pipe will be connected and installed in segments. Once the pipeline is in place, the diffuser pipeline trench will be backfilled with bedding, previously excavated soil, and topped with riprap. The backfill will transition to riprap material that will cover the top of the pipeline and slope approximately 3:1 upstream and downstream. Excess riverbank and riverbed material will be distributed on the river bench within the allowed construction disturbance area.

Staging areas are planned for equipment and materials needed for construction of the diffuser including stockpiling of excavated soil. A 2.69-acre staging area will be located on the landside of the Feather River west levee just south of the proposed 36-foot-wide permanent

easement for the new outfall pipeline. Staging and material storage will also occur on the riverbank area immediately north of the outfall pipeline construction zone.

V. Covered Species Subject to Take Authorization Provided by this ITP:
This ITP covers the following species:

Name	CESA Status[3]
1. Spring-run Chinook salmon (*Oncorhyncus tshawytscha*)	Threatened[4]

This species and only this species is 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 in-water geotechnical exploration borings, dewatering, in-water pile driving, in-water temporary work trestle construction, recontouring of construction access areas, excavation of the pipeline trench, placement of drainage discharge pipes and diffuser pipeline, diver-welding, placement of fill materials (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 crushing, entombment by excavated material fallback from the equipment bucket into the river, mortality resulting from stress or injury associated with fish rescue efforts and dewatering activities, and hydroacoustic stress from pile driving. Additionally, the Covered Activities may result in take of Covered Species due to the temporary increase in sedimentation and turbidity, potential stranding of individuals in cofferdams, changes in water temperature conditions (thermal stress), and increased predation on Covered Species due to the attraction of predatorial species from disturbing benthic organisms and other food sources. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from relocation describe the circumstances of any other form of take. The areas where authorized take of the Covered Species is expected to occur include: the Feather River channel (collectively, the Project Area).

The Project is expected to cause the permanent loss of 0.069 acres of aquatic habitat for the Covered Species, and temporary loss of 0.559 acres of aquatic habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and

[3] Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.
[4] See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(2)(c).

the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from tunneling and capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

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

VIII. Conditions of Approval:
Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vehicular ingress and egress, staging and parking, and noise and vibration generating activities that may 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. **California Environmental Quality Act (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 (MND) SCH No.: 2022010175) adopted by City of Yuba City on March 15, 2022, as lead agency for the Project pursuant to the 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) (EPIMS Notification No. SUT-30548-R2) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.

4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Endangered Species Act Section 7(a)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Yuba City Wastewater Treatment Facility Outfall and Diffuser Project (NMFS ECO #: WCR-WCRO-2022-02177) 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 than 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(s), Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and/or Biological Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.

6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to

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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.

6.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall 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.

6.5. Construction Monitoring Documentation. The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site 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, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.

6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.

6.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.

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6.9. Delineation of Property Boundaries. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities.

6.10. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.

6.11. Project Access. Project-related personnel shall access the Project Area using routes identified in the Project Description, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. 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.

6.12. 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 6.11 of this ITP.

6.13. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.

6.14. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.

6.15. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

7. Monitoring, Notification and Reporting Provisions:

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

7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW 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.

7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading are completed. The Designated Biologist shall conduct compliance inspections to:

(1) minimize incidental take of the Covered Species;

(2) prevent unlawful take of species;

(3) check for compliance with all measures of this ITP;

(4) check all exclusion zones; and

(5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

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

7.4. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 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, the CDFW Regional Representative is CESA Desk

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(R2CESA@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.

7.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; and (6) information about other Project impacts on the Covered Species.

7.6. 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.

7.7. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all 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 about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

7.8. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial

notification to CDFW by calling the Regional Office at (916) 358-2900. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

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

8.1. Work Period. All in-water Covered Activities within the Project Area shall be confined to the period from July 1 to October 31 of each year.

8.2. Work Period Modification. If the Permittee needs more time to complete a Covered Activity, the work may be permitted outside of the work period and extended by a CDFW representative who reviewed the Project, or if unavailable, through contact with the Regional office (see Contact Information). No later than ten (10) business days prior to the end of the work period, the Permittee shall submit a written request for a work period variance to CDFW for review and approval. The work period variance request shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; and 4) provide photographs of both the current work completed and the proposed site for continued work. Work period variances are issued at the discretion of CDFW. CDFW will review the written request to work outside of the established work period. The Permittee shall not conduct work outside of the work period without written approval from CDFW.

8.3. Turbidity Curtain. Where appropriate, Permittee shall deploy a turbidity curtain prior to starting in-water trenching, excavation, and fill activities to reduce sediment resuspension.

8.4. Block Nets. To the extent feasible, Permittee shall exclude fish from the areas being trenched, excavated, and filled in water using block nets.

8.5. Night Work. If night work is necessary, lighting shall be selectively placed, shielded, and directed away from Covered Species' natural habitat. Night work shall be restricted to activities that are not in-water to ensure the Covered Species are allowed to migrate upstream and downstream (10pm to 8am are typical periods for the migration of the Covered Species in their juvenile and adult life stages).

8.6. Fish Rescue and Relocation Plan. Permittee shall prepare and submit to CDFW for approval 30 days prior to initiating Covered Activities, a Fish Rescue and Relocation

Plan to limit the number of Covered Species that may be entrained and/or stranded during construction and dewatering activities. The plan shall include, at a minimum: 1) a list of fish species that may be encountered; 2) descriptions of the proposed methods and equipment to be used to prevent fish stranding; 3) the proposed timing of fish relocation activities; and 4) description of the relocation area(s) for captured Covered Species, including relative location quality of habitat, the potential for non-native species or predators to be present, potential barriers for movement. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. CDFW will provide a written response within 15 business days of submittal.

8.6.1. Covered Species Relocation. If Covered Species is encountered within the Project Area, is directly threatened by Covered Activities, and it is unable to move to a safe area on its own, the Designated Biologist(s) shall relocate the Covered Species to a safe area in accordance with the Fish Rescue and Relocation Plan. The Permittee or Designated Representative shall notify CDFW within 24 hours of each time Covered Species is relocated. Notification to CDFW shall be via telephone or email, followed by a written incident report. Notification shall include the date, number, and specific location of all Covered Species that are relocated from the cofferdam in addition to any direct mortality observed during in-water work and relocation.

8.6.2. Permittee shall include results of all fish capture and relocation efforts in the Monthly Compliance Report described in Condition of Approval 7.4 and Annual Status Report described in Condition of Approval 7.5, including, but not limited to, date, time, location, comments, method of capture, fish species, number of fish, life stage, condition, release location, and release time.

8.6.3. The Designated Biologist(s) shall place dead Covered Species in sealed plastic bags with labels indicating species, location, date, and time of collection, store them on ice, then freeze as soon as possible. Permittee shall notify both National Marine Fisheries Service (NMFS) and CDFW to determine which agency will receive the frozen specimens. Deposition of biological samples shall be coordinated with the CDFW Region 2 District Fisheries Biologist for Sutter County.

8.7. Instream Woody Material. Permittee shall avoid moving or altering instream woody material (IWM) from the Feather River to the greatest extent possible. If IWM must be moved or altered, the Permittee shall notify CDFW prior to moving or altering it and provide a plan to either move the IWM back to its original location or replace it with a functional equivalent as soon as possible.

8.8. Covered Species Erosion Control. Permittee shall actively implement best management practices to minimize turbidity and siltation and prevent erosion and

the discharge of sediment into the Feather River. Precautions shall include but are not limited to: preconstruction planning to identify site specific turbidity and siltation minimization measures; best management erosion control practices during project activity; and settling, filtering, or otherwise treating silty and turbid water prior to discharge into a stream or storm drain. This may require the placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to pass to downstream reaches.

8.9. Noise and Vibration Reduction. The Permittee will furnish, install, operate and maintain a sound attenuation system for all piles installed in water by impact hammer to reduce noise generated into the water. If the sound attenuation system fails, pile driving shall immediately stop and may not resume at the location until the system is put back into operation. A design of the sound attenuation system shall be submitted to CDFW for written approval prior to the start of Covered Activities. Acoustic attenuation devices for the piles will be routinely inspected for proper installation, operation, and functionality by the Designated Biologist. The following sound attenuation systems may be employed including but not limited to:

- Confined bubble curtain.
- An unconfined bubble curtain.
- Isolation casings.
- Wooden pile cushions.
- Other methods approved in advance by CDFW.

8.10. Soft Start Pile Driving. The initial strikes of all in-water piles, or piles that occur within 200 linear feet of the water's edge in the active channel in which injurious sound levels to Covered Species could reach the water, shall occur at less than full impact force for a period of 15 seconds followed by 30 seconds of no activity. This action shall be repeated two additional times and impact shall be gradually brought up to full force blows to reduce the initial sound level and provide warning blows to allow Covered Species adequate time to leave the Project Area.

8.11. Pile Driving Hydro-Acoustic Limits. Sound pressure levels generated by impact pile driving within the river, or within a reasonable distance of the water (on dry land) where sound levels may reach the water that are injurious to Covered Species shall be kept below the interim thresholds, 206 decibels (dB) peak Sound Pressure Level (SPL) and 187 dB cumulative Sound Exposure Level (SEL). If the 206 dB SPL or 187 cumulative SEL threshold injury zones are exceeded for impact pile driving the Permittee shall stop all impact pile driving activities and not continue until CDFW has been consulted. The Permittee shall monitor sound levels in accordance with the hydro-acoustic monitoring plan in Condition of Approval 8.12, during impact pile driving activities occurring within the river channel, as well as for piles within a reasonable distance of the water on dry land (within 200 feet of the edge of water in the active channel) where sound levels may be injurious to Covered Species.

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8.12. Hydro-Acoustic Monitoring Plan. Prior to the start of Covered Activities, an acoustic monitoring plan to evaluate sound levels during pile driving activities shall be prepared by the designated hydro-acoustic monitoring specialist who shall possess the same authority as a Designated Biologist and have the ability to direct the resident engineer to stop work as necessary by the conditions of this ITP. The acoustic monitoring plan and hydro-acoustic monitoring specialist must be approved in writing by CDFW before pile driving activities can proceed. The acoustic monitoring plan must be implemented during all impact pile driving activities, including near water piles within 200 feet of the edge of water in the active channel. At minimum, the monitoring plan shall include the following:

- Daily acoustical monitoring by the designated hydro-acoustic monitoring specialist.
- Describe the methods necessary to continuously assess underwater noise on a real-time basis, including details on the number, location, distance and depth of hydrophones and associated monitoring equipment.
- Provide a means of recording the time, number of pile strikes, peak sound energy per strike and interval between strikes.
- A minimum of two hydrophone underwater sound monitoring systems (hydrophone, signal amplifier and calibrator) that utilize current National Institute of Standards and Technology traceable calibration method.
- Require a minimum recording distance of 10 meters from each pile being monitored.
- Position a hydrophone at the proposed limits of peak and cumulative strikes to ensure threshold distances are not surpassed or provide specific analysis on how the proposed limits shall be measured and monitored.
- Provide specific inputs and calculations for cumulative sound exposure limits in the monitoring reports.

The results of hydro-acoustic monitoring shall be made available to CDFW upon request and submitted in the appropriate Monthly Report (Condition of Approval 7.4), Annual Report (Condition of Approval 7.5), and the Final Construction Report (Condition of Approval 7.7).

8.13. Fish Recovery. The Designated Biologist shall stop work if Covered Species are stunned or otherwise directly impacted by noise and vibration from pile driving. Work shall not resume until the fish clears the construction area.

8.14. Water Pumps Screening. All water pumping or withdrawal from the river shall comply with 1997 NMFS Fish Screening Criteria for Anadromous Salmonids, where applicable, to avoid entrainment of fish. The criteria include but are not limited to the following:

- Screen design must provide for uniform flow distribution over the surface of the screen.
- Screen material openings shall not exceed 3/32 inches for fry sized salmonids and shall not exceed 1/4 inches for fingerling sized salmonids.
- Where physically practical, the screen shall be constructed at the diversion entrance. The screen face should be generally parallel to river flow and aligned with the adjacent riverbank.
- The design approach velocity shall not exceed 0.33 feet per second for fry sized salmonids or 0.8 feet per second for fingerling sized salmonids.
- The screen design must provide for uniform flow distribution over the surface of the screen.

8.15. Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 7.8. Notification shall include the name of the facility where the animal was taken.

9. Compensatory Mitigation: CDFW has determined that compensatory mitigation 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. Compensatory mitigation shall be in the form of permanent protection and perpetual management of Cover Species habitat **or** funding to benefit Covered Species through the North Yuba River Spring-Run Chinook Salmon Reintroduction Program. 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 contribution to the recovery of the Covered Species required to provide for adequate compensation.

To meet this requirement, the Permittee shall purchase 0.766 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 9.1 **or** provide funding for the North Yuba River Spring-Run Chinook Salmon Reintroduction Program pursuant to Condition of Approval 9.2 below.

9.1. Covered Species Credits. If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall

purchase 0.766 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from initiating Covered Activities authorized in this ITP if Security is provided pursuant to Condition of Approval 10 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 18 months from initiating Covered Activities authorized in this ITP if Security is provided.

9.2. Funding for Covered Species Recovery. If the Permittee elects to provide funding towards the North Yuba River Spring-Run Chinook Salmon Reintroduction Program (Program), then the Permittee shall provide **$181,542.00** toward the Program. Funding shall be provided to CDFW to assist with staff time and equipment for monitoring and implementation. Permittee shall place the funding into an escrow account, with written instructions approved in advance in writing by CDFW, for the implementation of the Program before starting Covered Activities.

9.3. Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost of the Covered Species credit purchase as follows:

9.3.1. Purchase of Covered Species habitat credits as described in Condition of Approval 9.1, calculated at $237,000/acre for 0.766 acres: **$181,542.00.**

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

10.1. Security Amount. The Security shall be in the amount of **$181,542**. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.3 above, sufficient for CDFW or its contractors to complete the compensatory mitigation required by Condition of Approval 9.1 **or** 9.2.

10.2. Security Form. 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.

10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.

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

10.5. Security 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.

10.6. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

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

Even if Security is provided, the Permittee must complete the required mitigation no later than 18 months after initiating Covered Activities. CDFW may require the Permittee to provide additional Covered Species habitat credits 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.

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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 (2081-2023-017-02) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Morgan Kilgour, Regional Manager
c/o CESA Desk
California Department of Fish and Wildlife
North Central Region
1701 Nimbus Road
Rancho Cordova, CA 95670
Telephone: (916) 358-2900
Email: R2CESA@wildlife.ca.gov

and a copy to:

CESA@wildlife.ca.gov

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

Region 2 CESA Desk
1701 Nimbus Road
Rancho Cordova, CA 95670
Telephone: (916) 358-2900
Email: R2CESA@wildlife.ca.gov

XIII. Compliance with the CEQA:
CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, City of Yuba City. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Mitigated Negative Declaration (SCH No.: 2022010175) dated January 2022 that the City of Yuba City adopted for Wastewater Treatment Facility Outfall and Diffuser Project on March 15, 2022. At the time

the lead agency adopted the Mitigated Negative Declaration and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

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

CDFW finds based on substantial evidence in the ITP application, MND Wastewater Treatment Facility Outfall and Diffuser Project, EPIMS Notification No. SUT-30548-R2, the results of 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) establishment of avoidance zones; (2) worker education; and (3) 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 mitigation required to provide for adequate compensation. Based on this evaluation, CDFW determined that the purchase of 0.766 acres of compensatory habitat from an CDFW-approved mitigation or conservation bank or the funding for Covered Species recovery efforts, 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

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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	Project Location
FIGURE 2	Project Layout
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Letter of Credit Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 11/27/2024

DocuSigned by:
Morgan Kilgour
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Morgan Kilgour, Regional Manager
North Central Region