



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

California Endangered Species Act
Amended Incidental Take Permit No. 2081-2023-055-04

(Major Amendment No. 2)

PELICANS JAW HYBRID SOLAR PROJECT

I. Authority:

This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take¹ of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.² However, CDFW may authorize the take of any such species by permit pursuant to the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c). (See Cal. Code Regs., tit. 14, § 783.4). Additional prohibitions found in Fish and Game Code section 5050 prohibit the take of fully protected reptiles. Senate Bill (SB) 147 has been enacted to add section 2081.15 to the Fish and Game Code to allow CDFW to authorize the take of a fully protected species in subdivision (b) of section 5050 resulting from impacts attributable to the implementation of a solar photovoltaic project and any appurtenant infrastructure improvement, and any associated electric transmission project carrying electric power from a facility that is located in the State to a point of junction with any California-based balancing authority if the conditions set forth in Fish and Game Code section 2081.15, subdivisions (a-f) and section 2081, subdivisions (b) and (c) are met (See Cal. Code Regs., tit. 14, § 783.4, and Senate Bill No. 147, stats. 2023).

Permittee:	Pelicans Jaw Solar, LLC
Principal Officer:	Karl Brutsaert, Head of Development and Origination
Contact Person:	Karl Brutsaert, (949) 637-9087
Mailing Address:	3 Lagoon Drive, Suite 280 Redwood City, California 94065

II. Amended ITP³ Background:

On October 4, 2024 the CDFW issued Incidental Take Permit No. 2081-2023-055-04 (ITP) to Pelicans Jaw Solar (Permittee) authorizing take of blunt-nosed leopard lizard (*Gambelia sila*), San Joaquin kit

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.

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

fox (*Vulpes macrotis mutica*), and Swainson's hawk (*Buteo swainsoni*) (collectively, the Covered Species) associated with and incidental to the Pelicans Jaw Hybrid Solar Project in Kern County, California (Project). The Project as described in the ITP originally issued by CDFW included the construction, operation, and maintenance of a photovoltaic (PV) solar facility and appurtenant and associated infrastructure to generate up to 500-megawatts (MW) of renewable energy and up to 4,000 megawatt-hours (MWh) of battery energy storage on approximately 3,260 acres. In issuing the ITP, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

On October 18, 2024, the Permittee requested Major Amendment No. 1 to authorize take of western burrowing owl (*Athene cunicularia hypugaea*) during construction, operations, and maintenance associated and incidental to the Project.

CDFW now reissues this ITP (the Amended ITP). The Amended ITP includes all of the operative provisions as of the reissue date of this Amended ITP. Attachment 6 to this Amended ITP shows the specific red-line changes made to the ITP as a result of this Major amendment (Amendment No. 1).

III. 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 **September 30, 2044**.

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 this ITP.

IV. Project Location:

The Project is situated on approximately 3,260 acres in northwestern Kern County, located adjacent to the southern border of Kings County and west of the Kern River channel. It's approximately 12 miles southeast of Kettleman City, eight miles north of the community of Lost Hills, two miles east of the Interstate 5 (I-5), and two and a half miles west of the Kern National Wildlife Refuge. The Project site is generally bordered by Twisselman Road to the south, Lost Hills Road to the east, Kern and Kings County line to the north, and I-5 to the west (Figure 1).

V. Project Description:

The Project includes the construction, operation, and maintenance of a photovoltaic (PV) solar facility and appurtenant and associated infrastructure to generate up to 500-megawatts (MW) of renewable energy and up to 4,000 megawatt-hours (MWh) of battery energy storage on approximately 3,260 acres (Figure 2). The Project includes PV modules and either fixed-tilt or tracker technology, one substation, one operations and maintenance (O&M) facility, a battery energy storage system (BESS), an on-site overhead generation tie (gen-tie) line which will connect the Project substation to the point of interconnection, and a new switchyard which will be constructed on an existing Pacific Gas &

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Electric (PG&E) 230-kilovolt (kV) overhead transmission line on the site (Project Area). Once constructed, the overhead gen-tie line and switchyard will be transferred to PG&E, who will be responsible for O&M along with obtaining all necessary permitting. The Project and ITP does not include PG&E's O&M of the overhead gen-tie line and switchyard. Figure 3 depicts the post construction Project Area where Permittee's O&M activities will be covered under this ITP.

Schedule

Construction is expected to occur between 6:00 a.m. and 7:00 p.m., Monday through Friday with occasional weekends to complete critical construction activities (e.g. PV block construction, foundation pouring, etc.).

Night work will be limited to module installation, cable harness system installations, BESS commissioning, skid installation-related activities, substation work activities, PG&E switchyard work activities, and some materials deliveries. Night work will occur in artificially lighted areas. Night work will be scheduled Monday through Friday as needed, and is anticipated to occur 7:00 p.m. to 5:00 a.m.

Construction is anticipated to begin in 2024 and last approximately 12 months. O&M is anticipated to continue for up to 19 years.

Construction Phases

The construction of the Project, from site preparation through construction, testing, and commercial operation, will consist of four distinct phases:

- Phase I – PG&E switchyard associated fences and gates, and access road improvements to reach APN 044-101-16 (approximately 50 acres)
- Phase II – Onsite substation, gen-tie line, telecommunication line, fences, gates, and all civil work required for access roads, retention basins, grading, and concrete pad foundations needed for inverters, BESS, etc. (approximately 250 acres)
- Phase III – Installation and operation of approximately 300 MW of PV solar and a BESS with a capacity up to 2,000 MWh (up to 500 MW) (approximately 1,600 acres)
- Phase IV – Installation and operation of the remaining approximately 200 MW of PV solar (approximately 1,075 acres)
- Access and internal roads (approximately 94 acres)

Following are detailed descriptions of each Project component:

Construction

Construction of the Project includes the following activities:

Site Preparation, Earthwork, and Construction Control Measures

Most of the Project Area surface will be prepared using a low-impact mow and roll technique. This will remove surface vegetation, while keeping root systems. In some areas, grubbing and grading will be required to level particularly rough areas of the site and to prepare soils for concrete foundations.

The fence line will be shallowly excavated and graded to create a level surface for fence installation. Road work planned for across existing agricultural ditches may require engineered fill to match the surrounding existing grade of the Project Area. The engineered fill will be placed in the agricultural ditches and compacted to provide adequate structural support for roads and foundations. The Project Area's cut and fill will be balanced, and all topsoil will be retained and preserved on site to the extent feasible.

The collector substation areas (for the transformer equipment), PG&E switchyard, and BESS will require excavation and grading to form building pad support for the Project infrastructure. These areas will be graded and compacted to enable pouring of foundations. The foundations will be formed with plywood and reinforced with structural rebar. A concrete pad will be constructed as a foundation for the collector substation equipment, and the remaining area will be graveled.

Earthwork will require the use of horizontal directional drilling (HDD) machines, scrapers, excavators, dozers, water trucks, paddlewheels, haul vehicles, and graders. Onsite trenching also will be required to enable the placement of underground electrical and communication lines. Access roads and turn-arounds may be surfaced with aggregate or decomposed granite in conformance with emergency access requirements. Vegetation control will also occur as needed during the construction period for fire control.

Access and Internal Roads

The main Project access road will be I-5 and Twisselman Road. Two points of access from Twisselman Road will provide ingress/egress to the Project site, including:

- An approximately 1-mile-long access road extending north from Twisselman Road to the southwest corner of APN 044-150-170
- An access road extending from the intersection of Twisselman Road and the southeast corner of APN 044-130-160

Internal roads will be constructed to allow fire and maintenance vehicle access. All internal access roads within the Project Area will be up to 24 feet wide (including road shoulders) and cleared, graded, and compacted as needed. Up to a 24-foot-wide perimeter road separating the solar arrays from the perimeter fence will be constructed around the entirety of the Project site. Each access road will include a 20-foot-wide unpaved driveway with up to 2-foot shoulders on either side.

Retention Basins

As displayed in Table 1 (Attachment 5), the Project will construct 22 onsite stormwater retention basins in accordance with County drainage requirements, one of which will be constructed in the PG&E switchyard. Each basin will have a max slope of 3:1. The basin bottom will be earthen and slopes will be constructed with a woven geotextile and be revegetated. The existing agricultural ditches may be used for storage in addition to newly constructed basins.

Staging Areas

Materials and supplies will be stored on site within the Project Area for each phase. Staging areas will occupy approximately 30 acres of the Project Area and will include temporary construction trailers for management personnel, parking areas for Project employees, and site security. In addition, these areas will accommodate delivery and storage of materials and general vehicle parking, construction materials and supplies will be delivered by truck. When possible, equipment will be stored near the area where work will occur. Portable restroom facilities will be placed in the field and in the staging areas. Temporary water storage tanks may be used throughout the site during construction and will be used for erosion control and fire suppression.

Fencing and Security

The Project will include a permanent security fence that will be approximately eight feet high topped with one foot of barbed wire. The fence will have top rail, bottom tension wire, and three strands of barbed wire mounted on 45-degree extension arms and posts will be set in concrete. The security fence will be installed near the start of construction but may be preceded by mowing and/or vegetation clearance as needed. Security fencing will be raised approximately 4 inches above ground surface to allow wildlife to traverse the Project Area. A supervisory control and data acquisition (SCADA) system will be installed to monitor the site remotely. Access points will be controlled and used for personnel, equipment, and deliveries.

Onsite Substation

The Project substation will occupy approximately 10 acres and will be located at the termination point of the collection system of 34.5-kV alternating current (AC) electricity. The substation will include transformers, breakers, switches, meters, related equipment, and an emergency generator which will host the grid inter-tie safety equipment and switches required to interconnect to the high voltage transmission system.

The substation will consist of components up to 55 feet in height. Overhead lines will feed into the substation from 45- and 600-foot-tall structures for the single and double circuits, respectively. The substation will be surrounded by fencing.

The onsite substation will be located along the west side of the Project site within APN 044-101-16.

Generation Tie-Line

The energy generated by the Project will be transported from the onsite Project collector substation to PG&E's planned switchyard through an above ground gen-tie transmission line. The 230-kV gen-tie transmission line will consist of up to 150-foot-tall concrete or steel structures spaced approximately every 200 feet. The gen-tie will be approximately 800 feet long.

Telecommunication

The primary telecommunication line will consist of fiber optic cable lines necessary to support the onsite telecommunication equipment. Lines will be located on the same structures used to support the gen-tie line and/or buried in the access roads installed by HDD. Access to structures will be provided by unpaved spur roads, approximately 20 feet wide. The Project Area will include one approximately 150-foot-tall telecommunications structure.

Photovoltaic Panel System Installation

The PV panel system will include installation of steel piles, a single-axis tracker system, and PV modules. Steel piles are anticipated to be driven into the ground using pneumatic techniques with the balance of the pile being approximately 4 feet above grade. Tracker drive motors and torque tubes for the single-axis tracker system will be installed on the pile and the PV modules will be attached to the tracker system.

Inverters, Transformers, Collector System, Interconnection

The PV arrays will be connected using low voltage cables between the individual arrays and inverters. Medium voltage collector cables will be installed above ground or underground depending on the specific location of an array. Where underground cables are required, installation will be by backhoe, excavator, HDD machine, HDD locator, vacuum wagon, mixing tanks, fusing machine, and/or trencher at minimum of three feet below grade.

All electrical inverters and transformers will be placed on reinforced concrete foundations (pre-cast or cast in place) structures or steel skids.

Battery Energy Storage Systems

A centralized or distributed, integrated BESS will be constructed on the Project Area to store energy produced from the Project.

The batteries will be installed in racks that are housed in outdoor BESS enclosures measuring approximately 70 feet long by 13 feet wide by 15 feet tall. The BESS enclosures will be steel and will be constructed/assembled off-site, then delivered to the site and placed on a concrete foundation. The area within Project site containing the BESS enclosures will encompass up to 100 acres of the Project Area.

PG&E Switchyard – Construction

The switchyard will be located in an unpaved lot with electrical equipment surrounded by security fence. The following components will be constructed:

- Circuit breakers and mounting hardware
- Transformers, capacitors, reactors, disconnect switches, dead end structures, and electrical buses
- A single-story control house structure
- Access driveways, a minimum of 16 feet wide
- Asphalt access roads and drive aisles
- 9-foot-tall barbed wire perimeter chain link fence
- Security lighting with motion detectors
- Above- and below-ground distribution lines with 40-foot-tall wood, steel, or concrete structures
- Fiber-optic telecommunication facilities with 100-foot-tall structures
- Metering, security, and communication equipment

Construction of the PG&E switchyard will include rough grading where needed to accommodate support structures and access roads. One retention basin will be constructed for hydrologic control. A temporary staging area will be used to hold materials and construction equipment internal to the PG&E switchyard development footprint, and the barbed-wire perimeter security fence will be installed. Following site preparation, construction of the switchyard equipment foundations and the ground grid will commence with excavation activities using backhoes and drill rigs. When foundation work is complete, placement of major equipment on their respective foundations or structures will be completed. All areas that are temporarily disturbed by construction activities will be restored to pre-construction conditions, to the extent practical.

The PG&E switchyard is anticipated to be built over a 12-month period. It is anticipated that crews will work 8 or 10 hours per day, with work occurring Monday through Friday.

PG&E Switchyard – 230-kV Interconnection Line Work

New transmission structures will be constructed to connect the PG&E switchyard to the existing 230-kV transmission line that traverses the Project Area and to the Project collector substation. Temporary ground disturbance will occur over approximately 8,000 square feet around the structure location to access and install the structures.

Pull and tension sites will be needed to facilitate installation of the new conductors located within the transmission line alignment(s). The pull and tension sites will occupy an approximately 100- by 300-foot area. Temporary staging and lay down areas may also be needed for the construction of the new transmission lines.

Construction Water Use

Water will be required during the construction phase for dust suppression during such activities as clearing, grading, and soil compaction. Water will be used at ingress/egress points to minimize tracking of dirt off site onto local waterways, including Twisselman Road. Water may be sourced from offsite sources to facilitate construction and operational water needs. Offsite water will be transported to the site using water trucks. A 10,000-gallon permanent, above-ground water storage tank will be installed and used for construction and O&M tasks and facilities.

O&M Facilities

The O&M building will be a prefabricated commercial structure approximately 3,600 square feet and will be placed within APN 044-102-22 or APN 044-102-21. The O&M facility will include parking for staff vehicles and O&M equipment, and permanent restroom facilities with septic tanks. It is anticipated that up to five permanent staff will use the O&M building for ongoing facility monitoring, equipment storage, and repairs.

O&M Activities

Following construction of the Project, O&M activities will take place throughout the Project Area (except for the PG&E switchyard) (Figure 3):

Facility and Road Maintenance

Maintenance or repair of the facility and roads will occur on an as-needed bases with deterioration of parts or damage occurs or retrofitting becomes necessary. Maintenance will be conducted by up to five permanent staff.

Vegetation Management

Vegetation in and around the Project Area will be actively managed to minimize fire risk. Vegetation will be either be limited in height or removed primarily through a combination of dirt or gravel firebreaks and mowing.

PV module cleaning/washing

Project operations will require routine panel washing, approximately once per year.

BESS Operations and Maintenance Activities

O&M activities for the BESS include, but are not limited to, remote monitoring and operation of the BESS facility and the repair and maintenance of the BESS and its associated electrical transmission lines and other Project facilities. It is anticipated that between two to four staff members will visit the BESS weekly and as needed for maintenance monitoring. Batteries and various components will be replaced or renewed as needed to ensure optimal performance. Provisions for battery enclosures, referred to as augmentation equipment, will be installed as part of the ongoing maintenance activity over time as batteries lose capacity. The initial design accounts for this equipment.

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Covered Species Mitigation or Conservation Actions

In order to mitigate the taking of Covered Species under this ITP as a result of direct impacts from the Project, capture and relocation or translocation will occur in accordance with specific mortality reduction plans as required by Conditions of Approval of this ITP. Such activities will include capture, handling, processing, transport, and relocation or translocation as appropriate and related conservation actions to minimize mortality to Covered Species. Subsequent conservation actions for translocated individuals will be identified in specific monitoring program and adaptive management plans as deemed necessary for the Covered Species at the specific approved receiver and/or mitigation site(s).

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status⁴</u>
1. Blunt-nosed leopard lizard (<i>Gambelia sila</i>)	Endangered ⁵ and Fully Protected ⁶
2. San Joaquin kit fox (<i>Vulpes macrotis mutica</i>)	Threatened ⁷
3. Swainson’s hawk (<i>Buteo swainsoni</i>)	Threatened ⁸
4. Western burrowing owl (<i>Athene cunicularia hypugaea</i>)	Candidate ⁹

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

VII. 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 which are expected to result in incidental take of individuals of the Covered Species, include: field surveys; site preparation; clearing and grubbing; laydown/staging areas and job trailers; utility relocation; installation of fencing and gates; installation of steel structures; installation of electrical and grounding systems; installation of above and below

⁴ Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

⁵See Cal. Code Regs. tit. 14 § 670.5, subd. (a)(4)(B).

⁶ See Fish & G. Code §§ 5050 (a)(3)(b)(1) and 2081.15, subds. (a), (b)(2), and (c)-(f) (see also Senate Bill 147, stats. 2023). Senate Bill 147 has been enacted to add section 2081.15 to the Fish and Game Code to allow the CDFW to authorize the take of a fully protected species in subdivision (b) of Section 5050 resulting from impacts attributable to the implementation of a solar photovoltaic project and any appurtenant infrastructure improvement, and any associated electric transmission project carrying electric power from a facility that is located in the State to a point of junction with any California-based balancing authority if the conditions set forth in Fish and Game Code section 2081.15, subdivisions (a-f) and section 2081, subdivisions (b) and (c) are met (See Cal. Code Regs., tit. 14, § 783.4, and Senate Bill No. 147, stats. 2023).

⁷See *Id.*, subd. (b)(6)(E).

⁸See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(5)(A).

⁹The species status may change following the decision of the Fish and Game Commission to designate the species as threatened or endangered but if there is such a designation, the species will remain a Covered Species.

ground facilities (i.e. HDD, trenching); installation of communication systems; construction of site access roads; civil work activities (i.e. minimal cut/fill); installation and excavation of foundation systems, including steel, concrete, and other materials; mechanical erection of steel structures for the PV tracker; installation of PV modules; installation of battery storage and substation equipment; installation of O&M and control building; inspections, commissioning, and performance testing; O&M activities involving vegetation management, site access road maintenance, PV module cleaning/washing, preventative maintenance, and replacement of equipment as needed (i.e. inverters); handling, salvaging, and otherwise capturing Covered Species in order to relocate, translocate, or rehabilitate injured individuals; and other Project-related activities described in the Project Description section of this ITP (Covered Activities).

Incidental take of individuals of blunt-nosed leopard lizard (BNLL) and San Joaquin kit fox (SJKF) in the form of mortality (“kill”) may occur within the Project Area as a result of construction and O&M Covered Activities during burrow or den collapse that results in crushing or suffocation of underground Covered Species during excavation and compaction activities; entombment of individuals from deposition of fill material, or spoils over occupied burrows or dens; entrapment and burial during excavation and installation activities; crushing by equipment; loss of microhabitats; corralling/capturing Covered Species into a confined area with no escape; vehicle/equipment strikes from Project-related traffic; and noise and ground vibration that could cause individuals to leave burrows or dens at inappropriate times increasing stress, overheating; and exposure to predation. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursuit, catch, capture, translocation, or attempt to do so with entrapment of Covered Species into trenches or excavations, with corralling by installation of species exclusion fencing, with live capturing, with burrow excavation, and with implementation of other take minimization measures required by this ITP.

Incidental take of Swainson’s Hawk (SWHA) and burrowing owl (BUOW) in the form of mortality (“kill”) may occur as a result of construction and O&M Covered Activities involving vehicle strikes due to increased Project-related traffic and as a result of the loss of eggs, young, or fledglings due to abandonment of nests during clearing, grubbing, site preparation, construction, and O&M occurring in close proximity to nests during the SWHA and BUOW nesting season. Incidental take of SWHA and BUOW individuals may also occur from Covered Activities in the form of pursue, catch, and capture when eggs or individuals are salvaged after parental nest abandonment has occurred. The chance of viability of eggs and/or survival for SWHA and BUOW in this circumstance is greatly reduced. Direct impacts to foraging and nesting habitat could also affect migrating individuals, and the fitness of SWHA and BUOW young raised in close proximity to the Project due to reduced or disrupted foraging opportunities that reduce the ability of parents to acquire food for their dependent young. Ground-disturbing activities could result in a temporary reduction of prey species for SWHA and BUOW and temporary effects on nesting success on the utility poles, trees, or burrow habitat, as applicable, near the Project Area. Indirect impacts to nesting SWHA and BUOW from the Covered Activities include noise and vibration, fugitive dust, and increased human activity. Noise and vibration could cause

physiological and/or behavioral disruptions that may interfere with foraging and breeding, including temporary or permanent nest abandonment. O&M Covered Activities could indirectly affect nesting SWHA and BUOW through noise and increased human activity.

Incidental take of the Covered Species is expected to occur throughout the entire 3,069-acre Project Area all of which will be impacted. Covered Species habitat is low quality leveled non-native grassland formerly in irrigated agricultural production. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from ground disturbance, equipment operation, and traffic; temporary displacement; stress resulting from capture and relocation/translocation; increased exposure or stress from disorientation; fugitive dust; visual disturbance; long-term effects due to displacement from preferred habitat; loss of foraging habitat; increased competition for food and space; loss of burrowing habitat used for shelter, reproduction, and escape cover; increased human activity which could result in a reduction in prey abundance and/or availability; and increased vulnerability to disease and predation. Noise and vibration could cause physiological and/or behavioral disruptions that may interfere with breeding, result in nest abandonment, and a loss of fitness in dependent young resulting from interruptions to brooding and/or feeding schedules, due to impaired or interrupted foraging and nesting opportunities and because forage acquired further away from the nest is more energetically expensive for parents acquiring food for their dependent young.

VIII. 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 (with the exception of relocation or translocation conservation actions, or injured Covered Species requiring veterinary or rehabilitation care), or take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for capture in order to relocate or translocate Covered Species as authorized by this ITP.

IX. Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.

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2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2022110558) certified by Kern County on December 5, 2023, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Streambed Alteration Agreement (EPIMS-KER-48486-R4) 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 any incidental take permit that will be issued for the Project pursuant to the Federal Endangered Species Act (ESA), unless those terms and conditions are less protective of the Covered Species or otherwise conflict with the conditions of this ITP. In those instances, 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), Designated Surveyor(s), and Designated Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s), Designated Surveyor(s), and Designated Monitor(s) using the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 30 days before starting Covered Activities. The Designated Monitor(s) may assist the Designated Biologist(s) and Designated Surveyor(s) in compliance monitoring under the direct supervision of the Designated Biologist(s) or Designated Surveyor(s).

Permittee shall ensure that the Designated Biologist(s) and Designated Surveyor(s) for blunt-nosed leopard lizard, San Joaquin kit fox, and Swainson's hawk are knowledgeable and experienced in the biology, natural history, capturing, handling, and relocating of the

applicable Covered Species. Permittees shall ensure that the Designated Biologist for western burrowing owl is knowledgeable and experienced in the biology, natural history, surveying, monitoring, and exclusion techniques. Permittee shall also ensure that the Designated Biologist(s) is experienced in the excavation of burrows or dens actively used by the Covered Species, as applicable, and in the monitoring of construction activities under an ITP for the Covered Species. Due to the recent regulatory change addressing take of BNLL, alternative experience for a Designated Biologist approved for BNLL may be substituted at CDFW's discretion that equals the depth or breadth of experience that handling, relocating, and excavation of burrows would bring. Permittee shall ensure that the Designated Surveyor(s) and Designated Monitor(s) are knowledgeable and experienced in the biology and natural history of the applicable Covered Species. The Designated Biologist(s), Designated Surveyor(s), and Designated 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), Designated Surveyor(s), and Designated Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) must be changed.

6.3. Designated Biologist(s), Designated Surveyor(s), and Designated Monitor(s) Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) in the performance of his/her duties. If the Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) is unable to comply with the ITP, then they 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(s), Designated Surveyor(s), or Designated Monitor(s) that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.

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(s) or Designated Surveyor(s) that includes a discussion of the biology and general behavior of the Covered

Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP.

Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.

- 6.5. Construction Monitoring Documentation.** The Designated Biologist(s), Designated Surveyor(s), and Designated Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project Area upon request by CDFW.
- 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(s), Designated Surveyor(s), and Designated Monitor(s). Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles. Dust palliatives or other soil stabilizers shall not be used during construction or O&M activities without specific prior written approval by CDFW. If palliatives are proposed for use within the Project Area, Permittee shall submit a plan that includes, at a minimum, an area map indicating where palliatives will be used, the application frequency, the aquatic and terrestrial toxicity data, and the material safety data sheets to the Regional Representative and Regional Office identified in Condition of Approval Quarterly Compliance Report below. Permittee shall not apply dust suppressant, surfactant, soil binders or stabilizer products that may be harmful to Covered Species in upland or aquatic environments.

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- 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, photodegradable mesh (erosion control matting) or similar material, in potential Covered Species' habitat. Permittee shall only deploy erosion control mats, blankets, or coir rolls that consist of natural-fiber, biodegradable materials.
- 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 in the Project Area and remove and properly dispose of any temporary delineation materials upon completion of activities in the Project Area.
- 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. All delineation materials shall be removed and disposed of properly upon completion of activities in the Project Area.
- 6.11. Project Access.** Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 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 the Condition of Approval Project Access.
- 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 in accordance with all applicable state and federal statutes and in a manner that precludes any possibility for direct exposure to Covered Species.

Permittee shall ensure that all fueling, or maintenance of vehicles or equipment shall occur within established O&M buildings or designated staging areas and shall not occur within 200 feet of potential Covered Species burrows or dens, unless approved in advance and in writing by CDFW.

- 6.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 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.
- 6.16. Lighting.** All temporary and permanent outdoor lighting shall be aimed at the ground, shielded to prevent light from shining skyward, of minimum wattage necessary for safety and activity, and of motion-sensor type to prevent continuous nighttime lighting.
- 6.17. Herbicide Use.** Permittee shall limit herbicide use to treat and control invasive plant species only and shall only apply herbicide after hand or mechanical efforts have been ineffective. Permittee shall ensure that all application of herbicide is done by a licensed applicator in accordance with all applicable federal, State, and local laws and regulations. Herbicide sprays shall be used only when wind speeds are less than 10 miles per hour and all sprays shall contain a dye to prevent overspray. If herbicides must be used, Permittee shall consult with CDFW and obtain written approval from CDFW prior to application.
- 6.18. Rodenticides, Pesticides, and Insecticides.** Permittee shall not use rodenticides, pesticides, and/or insecticides on the Project Area without prior written permission from CDFW. Permittee shall not use any second-generation anticoagulant rodenticide (brodifacoum, bromadiolone, difethialone, and difenacoum) on the Project Area. Permittee shall not use any first-generation anticoagulant rodenticide (diphacinone, chlorphacinone, and warfarin) on the Project Area without prior written permission from CDFW. If pesticides must be used, Permittee shall consult with CDFW and obtain written approval from CDFW prior to their use.
- 6.19. Dogs.** Permittee shall prohibit domestic and working dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or federal, State, or local law enforcement officials.

6.20. Wildfire Avoidance. Permittee or Permittee’s contractors shall minimize the potential for human-caused wildfires by carrying water or fire extinguishers and shovels in all Project-related vehicles and equipment. The use of shields, protective mats, or use of other fire preventative methods shall be used during grinding and welding to minimize the potential for fire.

6.21. Permanent Security Fencing Plan. Permittee or Permittee’s contractor shall develop and submit a Permanent Security Fencing Plan for CDFW review and written approval a minimum of 14 calendar days before starting Covered Activities, to the Regional Representative and Regional Office identified in the Condition of Approval Quarterly Compliance Report.

The Permanent Security Fencing Plan shall include, but not be limited to the fencing materials, design, installation methods, installation locations, and post-construction augmentation plans. Permanent security fencing around the solar panel “blocks” and the Project Area as a whole (excluding the O&M building(s) and substation(s)), shall be modified for wildlife permeability by lifting or knuckling under to allow a gap from the ground to the bottom of the fence, between 4 and 6 inches, to allow for Covered Species permeability and use of the Project Area once construction activities are completed.

7. Monitoring, Notification and Reporting Provisions:

7.1. Notification Before Commencement. The Designated Representative shall notify CDFW before starting construction phase Covered Activities and O&M phase Covered Activities within the Project Area and shall provide CDFW with documentation of compliance with all pre-Project Conditions of Approval before starting either phase.

7.2. HDD Plan. The Designated Representative shall notify CDFW at least 14 calendar days before starting HDD activities in the Project Area and shall prepare a HDD Plan. The HDD Plan shall include but not be limited to, a discussion (and map) of the portion of the Project Area where the activities will occur, a description of the activities that will be completed, “take” minimization and avoidance measures for Covered Species, frac out monitoring, frac out planned response, and any other pertinent information. The HDD Plan shall be submitted to CDFW for written approval prior to starting such Covered Activities. Such Covered Activities may not proceed until the HDD Plan approval is received.

7.3. Notification of Non-compliance. The Designated Representative, Designated Biologist(s), or Designated Surveyor(s), 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.

- 7.4. Compliance Monitoring.** The Designated Biologist(s) or Designated Surveyor(s) shall be on-site daily, for the duration of the day, when construction Covered Activities or ground- or vegetation-disturbing O&M Covered Activities occur. Ground- and vegetation-disturbing activities include any action that modifies the existing ground or vegetated surface. Examples include the use of string trimmers, mowing, application of herbicide, trenching, grading, etc. Operation of vehicles on established roads that have been properly maintained is not considered ground- or vegetation-disturbing activity. The Designated Biologist(s) or Designated Surveyor(s) shall be on-site during construction for a minimum of once every 14 days during periods of inactivity, after clearing, grubbing, and grading are completed. The Designated Biologist(s) or Designated Surveyor(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 and/or buffer zones; (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area; (6) maintain an on-going account of the number of acres that are permanently disturbed by the Project; (7) document the Covered Activities that occurred; and (8) assess the adequacy of the mitigation and conservation strategies resulting from the measures of this ITP to provide information to direct the adaptive management of Covered Activities.

Until completion of construction Covered Activities and during active construction, the Designated Representative, Designated Biologist(s), or Designated Surveyor(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.

- 7.5. As-Built Development Plans.** No later than 45 calendar days after completion of all construction phase Covered Activities, Permittee shall submit as-built development plans. The as-built plan-sheets shall delineate and quantify the extent of permanent Project features, including roads, utilities and all other facilities and features associated with the Project. The as-built plans shall include an estimate of the permanent disturbance during construction by highlighting the estimated disturbance areas on the as-built plan-sheets. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. As-built plans shall be derived from survey data acquired after the Project construction phase has been completed and shall be verified by the Designated Biologist(s) or Designated Surveyor(s). The as-built plans shall be submitted in electronic format (e-mail or other available document repository/share site) to CDFW following the directions provided in Condition of Approval Quarterly Compliance Report.

- 7.6. Quarterly Compliance Report (Construction Phase).** The Designated Representative, Designated Biologist(s), or Designated Surveyor(s), shall compile the observation and inspection records identified during Compliance Monitoring, described above, into a Quarterly Compliance Report (QCR) during the construction phase only and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted via e-mail to CDFW's Regional Representative, Regional Office (RRR.R4@wildlife.ca.gov) and Headquarters CESA Program (CESA@wildlife.ca.gov) no later than the 15th day of the month following the reporting period. At the time of this ITP's approval, the Regional Representative is Jim Vang (Jim.Vang@wildlife.ca.gov), the Regional Office e-mail is RRR.R4@wildlife.ca.gov, and the Headquarters CESA Program e-mail 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.
- 7.7. Annual Status Report (Construction Phase and O&M Phase).** Permittee shall provide CDFW with an Annual Status Report (ASR) during the construction phase and O&M phase no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report, identified below. The Reporting Period for the ASR shall be the prior calendar year. Each ASR shall include, at a minimum: (1) a summary of all QCRs for the Reporting Period during the construction phase; (2) a record of the Education Program training sessions provided over the Reporting Period; (3) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known for the Reporting Period; (4) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (5) a summary of findings from all pre-construction surveys conducted during the Reporting Period, including but not limited to, the number of times a Covered Species or their burrow was encountered, location, if avoidance was achieved, and if not, what measures were implemented; (6) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (7) all available information about Project-related incidental take of the Covered Species for the Reporting Period; (8) a written and mapped accounting of the number of acres subject to both temporary and permanent disturbance, both for the Reporting Period, and a total since ITP issuance; and (9) information about other Project impacts on the Covered Species during the Reporting Period. ASRs shall be submitted to CDFW following the directions provided in the Condition of Approval Quarterly Compliance Report.
- 7.8. CNDDDB Observations.** The Designated Biologist(s) or Designated Surveyor(s) shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within a minimum of 60 calendar days of the observation. The Designated Biologist(s) or

Designated Surveyor(s) shall include copies of the submitted forms with the next QCR or ASR, whichever is submitted first relative to the observation during the construction phase and copies of the submitted forms shall be submitted with the ASR during the O&M phase.

- 7.9. Construction Phase Conditions of Approval Evaluation Report.** No later than 45 days after completion of all construction activities for the solar array development area and gen-tie line, Permittee shall provide CDFW with a Construction Phase Conditions of Approval Evaluation Report. The Designated Biologist(s) or Designated Surveyor(s) shall prepare the Construction Phase Conditions of Approval Evaluation Report which shall include, at a minimum: (1) a summary of all QCRs and all ASRs; (2) beginning and ending dates of Covered Activities for the construction phase; (3) a copy of the table in the MMRP with notes showing when each of the construction phase conditions were implemented and an assessment of the effectiveness of each of the Conditions of Approval associated with the construction of the Project in minimizing and mitigating Project impacts on Covered Species; (4) recommendations on how the conditions might be changed to more effectively minimize take and mitigate the impact of future projects on Covered Species; and (5) any other pertinent information. The Construction Phase Conditions of Approval Evaluation Report shall be submitted to CDFW following the directions provided in Condition of Approval Quarterly Compliance Report.
- 7.10. 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 or Designated Surveyor(s) shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all QCRs 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.
- 7.11. As-Built Development Plans.** No later than 45 calendar days after completion of all construction phase Covered Activities, Permittee shall submit as-built development plans. The as-built plan-sheets shall delineate and quantify the extent of permanent Project features, including roads, utilities and all other facilities and features associated with the Project. The as-built plans shall include an estimate of the permanent disturbance during construction by highlighting the estimated disturbance areas on the as-built plan-sheets. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. As-built plans shall be derived from survey data acquired after the Project construction phase has been completed and shall be verified by the Designated Biologist(s). The As-built plans shall be

submitted in electronic format (e-mail or other available document repository/share site) to CDFW following the directions provided in the Condition of Approval Quarterly Compliance Report.

7.12. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist(s) or Designated Surveyor(s) 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(s), or Designated Surveyor(s), or Designated Representative shall provide initial notification to CDFW via email to the Regional Office at RRR.R4@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, 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. The written report shall be submitted via e-mail to the Regional Representative and Regional Office identified in the Quarterly Compliance Report Condition of Approval.

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:

Construction Phase Covered Activities Take Minimization Measures

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

8.2. Work Hours. Permittee shall conduct all Covered Activities during daylight hours (sunrise to sunset) except for the following activities as necessary: (1) planned and unplanned repairs and replacement, wiring, testing, and commissioning that must occur after dark to ensure PV arrays are not energized; (2) unanticipated emergencies (in accordance with Section 21060.3 of the Public Resources Code), including forced outages and non-routine repairs requiring immediate attention; (3) security patrols, and (4) refueling equipment and staging material for the following day's construction activities.

Permittee shall ensure: (1) that any vehicle traffic necessary during nighttime hours associated with these activities are conducted with caution to minimize impacts to Covered Species; (2) the speed limit during allowable night work is reduced to 10 mph for non-emergency activities; and (3) that CDFW is notified in writing as soon as possible and no later than 24 hours after commencement of any emergency nighttime activities.

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- 8.3. Delineation of Ingress and Egress Routes.** Permittee shall flag or otherwise clearly mark all access roads in the field from the paved road and vehicle operation shall be limited to these designated ingress and egress routes.
- 8.4. Vehicle Parking.** Permittee shall not allow vehicles to park on top of Covered Species burrows or dens, except within designated staging areas for which burrows have been excavated per the Conditions of Approval BNLL Burrow Excavation and SJKF Den Excavation. Vehicles left overnight shall be located at least 50 feet from all Covered Species dens or burrows.
- 8.5. Vehicle Equipment Inspection.** Workers shall inspect for Covered Species under vehicles and equipment every time before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist(s) or Designated Surveyor(s) and wait for the Covered Species to move unimpeded to a safe location.
- 8.6. Pipe and 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 structure is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist(s) or Designated Surveyor(s) and wait for the Covered Species to move unimpeded to a safe location before moving and utilizing the structure. Alternatively, BNLL may be moved by the Designated Biologist(s) or Designated Surveyor(s) in accordance with the CDFW-approved BNLL Mortality Reduction and Relocation Plan.
- 8.7. Excavation Inspection.** The Designated Biologist(s) or Designated Monitor(s) shall inspect all trenches, open holes, sumps, and other excavations (collectively, Excavations) within the Project Area for Covered Species and other trapped animals every day. If the Excavations have slopes less steep than 1:1, are covered as described below, or have escape ramps as described below, these checks can be reduced to immediately before Excavations are backfilled, during workdays, and after rain events that could wash out escape ramps.
- **Cover:** Unless inspected daily, all Excavations with sidewalls steeper than a 1:1 (45 degree) slope shall be covered when workers or equipment are not actively working in the Excavation, which includes cessation of work overnight, or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope as described below. To prevent inadvertent entrapment of the Covered Species, the Designated Biologist(s) or Designated Monitor(s) shall oversee the covering of all such Excavations 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 shall be

secured with soil staples or similar means to prevent gaps. The Designated Biologist(s) or Designated Monitor(s) shall also thoroughly inspect any Excavations that are covered long term at the beginning of each working day to ensure inadvertent entrapment has not occurred and shall make any necessary repairs to the cover.

- Escape Ramp: As an alternative to covering, all Excavations may have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. All Excavations shall have an additional escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope for every additional 50 feet of Excavation length. For example, a 50-foot-long Excavation would have two escape ramps and a 100-foot-long Excavation would have three escape ramps.

8.8. On-Site Retention Basin Entrapment Prevention. Permittee shall ensure that final design of the on-site retention basins have adequate elements to ensure that Covered Species can escape should one inadvertently enter or can be precluded from entry. Permittee shall submit a Basin Design Plan with elements necessary for Covered Species escape and/or entry prevention for review and approval by CDFW prior to implementation of Covered Activities related to basin construction and/or installation.

8.9. Covered Species Observations. All workers shall inform the Designated Biologist(s) or Designated Surveyor(s) if a Covered Species is seen within or near the Project Area during implementation of any Covered Activity. All work in the vicinity of the Covered Species, which could take or injure the animal, shall cease until the Covered Species moves from the Project Area of its own accord.

8.10. Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist(s) or Designated Surveyor(s) 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 phone and e-mail followed by a written incident report as described in the Condition of Approval Notification of Take of Injury and shall include the name of the facility where the animal was taken. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was treated. If a Covered Species is found deceased, the Designated Biologist(s) or Designated Surveyor(s) shall immediately collect, bag, and freeze the carcass and consult with CDFW to determine if submittal of the carcass to a laboratory is warranted.

Blunt-nosed Leopard Lizard Specific Take Minimization Measures:

- 8.11. BNLL Pre-Construction Surveys and Reporting.** The Designated Biologist(s) or Designated Surveyor(s) shall survey the Project Area (or distinct work area(s) within the Project Area) a minimum of 50 feet beyond the limits of the Project Area (unless otherwise approved in writing by CDFW) to identify, flag, and map all potential burrows that could be occupied by BNLL, whether they appear active or inactive, within 30 calendar days prior to beginning Covered Activities in the Project Area. Permittee shall provide the results in a BNLL Burrow Map written report to CDFW's Regional Representative at least five calendar days prior to beginning Covered Activities. The report shall include, but not be limited to, methodology, date and time of survey(s), the number of burrows that could be occupied by BNLL, a discussion and map of the locations of each burrow and the dates when potential BNLL relocation or translocation will occur as described in Condition of Approval BNLL Relocation and depict and discuss burrows which will be avoided per Condition of Approval BNLL Burrow Avoidance.
- 8.12. BNLL Mortality Reduction and Relocation Plan.** Permittee shall submit a BNLL Mortality Reduction and Relocation Plan to CDFW at least 14 days prior to beginning Covered Activities. BNLL surveys, capture, burrow excavation, and other relocation activities shall not proceed until this plan has been approved in writing by CDFW's Regional Representative. The BNLL Mortality Reduction and Relocation Plan shall include, but not be limited to: timing; detailed description of survey and capture methodology; detailed burrow excavation methods; release location(s) protected by conservation easement; detailed release methods (i.e., hard or soft release or another method); potential artificial burrow design and installation methods; and identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured BNLL or care for at-risk torpid BNLL or BNLL eggs. Only the Designated Biologist(s) or Designated Surveyor(s) is authorized to capture, handle, relocate, translocate, and transport BNLL. Once the BNLL Mortality Reduction and Relocation Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated by CDFW to reflect best available science and/or to update mitigation and conservation strategies in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes to the BNLL Mortality Reduction and Relocation Plan shall be submitted, in writing, to CDFW and approved in writing prior to implementation of any proposed modifications.
- 8.13. BNLL Burrow Avoidance.** The Permittee shall notify United States Fish and Wildlife Service (USFWS) and CDFW's Regional Representative on the same workday via telephone or e-mail if any BNLL are discovered within or immediately adjacent to the Project Area. The Designated Biologist(s) shall establish a no-disturbance buffer of 50 feet or greater around potential burrows that could be occupied by BNLL, suspected burrows or known burrows to be occupied by BNLL within the Project Area. If the 50-foot no-disturbance buffer cannot be implemented, potential live capture, relocation, and burrow excavation shall occur in

accordance with the Conditions of Approval BNLL Mortality Reduction and Relocation Plan, BNLL Individual Avoidance, BNLL Relocation, BNLL Relocation Weather Constraints, and BNLL Burrow Excavation. A buffer reduction request may be submitted to CDFW to allow for retaining burrows that could otherwise be reasonably avoided and un-damaged by ground-disturbing activities and potentially available to Covered Species post construction. Such requests should consider exclusion methods (e.g., exclusion fence strategies and/monitoring). Buffer reduction requests shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any buffer reduction activities.

- 8.14. BNLL Individual Avoidance.** If an individual (adult or juvenile) BNLL is detected above ground within the Project Area, any Covered Activities occurring within 500 feet of the observed BNLL must temporarily cease. The BNLL shall first be allowed to leave the Project Area on its own volition monitored by the Designated Biologist(s) or Designated Surveyor(s). If the BNLL is unable to leave the Project Area on its own volition due to Project related obstructions (e.g., fencing, vehicles, Project materials, etc.), the Designated Biologist(s) or Designated Surveyor(s) may establish an area for a passive exit leading/oriented away from the Project Area into suitable habitat only (i.e. not into the path of a paved road, etc.) or pursue the BNLL into an exit path leading away from the Project Area into suitable habitat only. The Designated Biologist(s) or Designated Surveyor(s) in either scenario shall monitor the exit of the BNLL. If a passive exit area or exit path needs to be established by the Designated Biologist(s) or Designated Surveyor(s) with passive or active exclusion (e.g., sequencing of temporary fence, boards, or flashing) the Designated Biologist(s) shall have such equipment ready to implement a non-handling exit area or exit path. If based on the Designated Biologist's assessment that the BNLL will not successfully exit the Project Area with passive or active exclusion the BNLL may be captured and relocated by the Designated Biologist per Condition of Approval BNLL Relocation.
- 8.15. BNLL Relocation.** Prior to commencing or re-commencing Covered Activities within the Project Area, and following the methods outlined in the BNLL Mortality Reduction and Relocation Plan, any above ground BNLL detected by the Designated Biologist(s) or Designated Surveyor(s) within the Project Area that cannot be avoided per Conditions of Approval BNLL Burrow Avoidance and BNLL Individual Avoidance shall be live captured by the Designated Biologist(s) immediately after detection, in the event additional animals are detected after initial relocation activities. The Designated Biologist(s) shall relocate all captured BNLL immediately to the CDFW-approved release site identified in the BNLL Mortality Reduction and Relocation Plan. The Designated Biologist(s) shall submit daily capture and release forms to CDFW for review and concurrence to continue (or not) with live capture. Daily capture forms shall include, but not be limited to: on-site shaded air temperatures measured 1-2 centimeters (cm) from above the ground and time(s) of captures; capture details (e.g., attempts made, capture response, total duration of hold times); relocation/translocation details (e.g., behavioral response) and supporting photos

and/or videos; weather conditions (e.g., wind and cloud cover) during capture and post release, etc. Permittee shall propose a final capture activity date for CDFW review and written approval. Following the CDFW-approved final day of capture activity, burrow excavation according to Condition of Approval BNLL Burrow Excavation may begin.

- 8.16. BNLL Relocation Weather Constraints.** During the threat of inclement weather, such as the National Weather Service prediction of a 30 percent or greater chance of rain, the Designated Biologist(s) shall halt all capture of BNLL. Additionally, the Designated Biologist(s) shall halt all capture of BNLL if the air temperature drops below 77 or exceeds 95 degrees Fahrenheit during the capture period. The Designated Biologist(s) shall cease capture activity if captured animals are found to be lethargic or are otherwise showing signs of distress.
- 8.17. BNLL Burrow Excavation.** Immediately following live capture activities conducted in accordance with Conditions of Approval BNLL Mortality Reduction and Relocation Plan and BNLL Relocation and prior to beginning Covered Activities within the Project Area, the Designated Biologist(s), or individuals under the direct supervision of the Designated Biologist(s), shall fully excavate by hand all burrows potentially occupied by BNLL within each fenced Project Area to be disturbed by Covered Activities. The Designated Biologist(s) shall immediately relocate any active BNLL encountered during burrow excavation to the CDFW-approved release site(s) identified in the BNLL Mortality Reduction and Relocation Plan. Any BNLL eggs or torpid BNLL discovered during burrow excavation shall be transported to an identified and approved care facility listed in the BNLL Mortality Reduction and Relocation Plan.

San Joaquin Kit Fox Specific Take Minimization Measures:

- 8.18. SJKF Pre-Construction Surveys and Reporting.** The Designated Biologist(s) or Designated Surveyor(s) shall conduct surveys to identify potential, known, and/or natal SJKF dens to identify, flag, and map all potential dens within 30 calendar days prior to beginning Covered Activities in each work area or phase. Surveys shall include the Project Area and 500 feet (where feasible) beyond the limits of the Project Area (or distinct work area(s) within the Project Area), unless otherwise approved in writing by CDFW. If the Designated Biologist identifies any potential, known, and/or natal SJKF dens, the den(s) shall be monitored following the Conditions of Approval SJKF Den Blockage and SJKF Den Excavation unless avoided per Condition of Approval SJKF Den Avoidance. Permittee shall provide the pre-construction survey results in a written report to CDFW's Regional Representative at least five calendar days prior to the beginning of Covered Activities. The report shall include, but not be limited to, methodology, date, and time of the survey, and the number, map of the locations, and discussion of each potential, known, and/or natal SJKF den identified.
- 8.19. SJKF Den Avoidance.** The Permittee shall notify USFWS and CDFW's Regional Representative immediately via telephone or e-mail if any SJKF-occupied atypical dens,

known dens, or potential or known natal dens are discovered within or immediately adjacent to the Project Area. The Permittee shall establish no-disturbance buffer zones according to the following guidelines:

- 8.19.1. If a potential SJKF den (any subterranean hole, three inches or larger, for which no evidence is present to conclude that the den is being used or has been used by a SJKF) is discovered, or a SJKF is found in an "atypical" den (e.g., a pipe or culvert), a minimum 50-foot no-disturbance buffer shall be established around the den.
- 8.19.2. If a known SJKF den (a den that shows evidence of current use or is known to have been used in the past) is discovered, Permittee shall establish a minimum no-disturbance buffer of at least 100 feet around the den.
- 8.19.3. If a potential natal SJKF den (a den with two or more openings) is discovered, a no-disturbance buffer of at least 200 feet shall be established around the den.
- 8.19.4. If a SJKF known natal den (a den that shows evidence of pups, or a den which is known to have been used for pupping in the past) is discovered, a no-disturbance buffer of at least 250 feet shall be established around the den.

Establishment of larger no-disturbance buffers are warranted if SJKF are visibly stressed by the Covered Activities or workers in the vicinity and increased no-disturbance buffers will be determined by the Designated Biologist(s) or Designated Surveyor(s) based on their behavioral observations of the affected SJKF(s). If SJKF dens cannot be avoided as described above, then the Permittee shall follow Conditions of Approval SJKF Den Blockage, SJKF Den Excavation, and SJKF Den Replacement Plan as appropriate.

- 8.20. SJKF Den Blockage.** The Permittee shall block rather than destroy any den located within the buffer distances prescribed by Condition of Approval SJKF Den Avoidance, but outside the discrete ground-disturbing Project Area(s). Dens (including dens in natural substrate and in/under man-made structures) may be blocked only immediately after the Designated Biologist(s) or Designated Surveyor(s) has conducted four consecutive days of monitoring with tracking medium or infrared camera and determined that SJKF is not currently present. Natal dens shall not be blocked until the pups and adults have vacated the den and then only after written concurrence from the USFWS and CDFW. Den blockage shall be done in a manner that prevents SJKF from digging back into the den. All blocked dens shall be monitored at least once a week to ensure that the exclusion material is still intact. If SJKF is detected during monitoring activities or after the block is installed or if SJKF regains access to the den, the Permittee shall contact CDFW immediately and obtain written guidance regarding how to proceed. All blocked dens shall be unblocked within 48 hours of completion of Covered Activities within the prescribed buffer distance.

- 8.21. SJKF Den Excavation.** Dens (including dens in natural substrate and in/beneath man-made structures) may be destroyed immediately after the Designated Biologist(s) or Designated Surveyor(s) has conducted four consecutive days of monitoring with tracking medium or infrared camera and determined that SJKF are not currently present. Natal dens shall not be excavated until the pups and adults have vacated the den and then only after written concurrence from USFWS and CDFW. If the excavation process reveals evidence of current use by SJKF then den destruction shall cease immediately and tracking or camera monitoring as described above shall be conducted/resumed. Destruction of the den shall be accomplished by careful excavation, which may be assisted by mechanical means, until it is certain no individuals of SJKF are inside. Dens to be destroyed shall be fully excavated by the Designated Biologist(s), Designated Surveyor(s) or by the Designated Monitor(s), both of the latter only under direct supervision of the Designated Biologist(s) for atypical, known, natal, and potential natal dens. A potential den may be independently excavated by a Designated Surveyor(s), or by a Designated Monitor(s) under the direct supervision of a Designated Surveyor(s), only if a Designated Biologist has first confirmed that the subterranean hole, three inches or larger, has no evidence (SJKF scat, tracks, prey remains, “keyhole shape” burrow entrance, etc.) present to conclude that the den is being used or has been used by a SJKF. Following excavation, dens shall be filled with dirt and compacted to ensure that SJKF cannot reenter or use the den during the construction phase. If an individual SJKF does not vacate a den within a reasonable timeframe, USFWS and CDFW shall be consulted, and Permittee shall obtain written guidance from both agencies prior to proceeding with den destruction.
- 8.22. SJKF Den Replacement Plan.** Permittee shall submit a SJKF Den Replacement Plan to CDFW at least 14 calendar days before starting Covered Activities. Permittee shall replace each known and active SJKF dens that cannot be avoided within the Project Area with an artificial den to compensate for the loss of important shelter used by SJKF for protection, reproduction, and escape from predators. Den excavation within the Project Area may not proceed until the SJKF Den Replacement Plan is approved, in writing, by CDFW’s Regional Representative. The SJKF Den Replacement Plan shall include, but not be limited to, a discussion and map of potential artificial den replacement locations; detailed description of the den excavation methods; and description of the replacement den dimensions (e.g., depth and width of den, width of den entrance, orientation of den entrance, number and placement of entrances to natal dens). Once the SJKF Den Replacement Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated by CDFW to reflect best available science in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes to the SJKF Den Replacement Plan shall be submitted, in writing, to CDFW and approved by CDFW in writing prior to implementation of any proposed modifications.

Swainson's Hawk Specific Take Minimization Measures:

- 8.23. SWHA Pre-Construction Surveys and Reporting.** The Designated Biologist shall conduct pre-construction surveys during the nesting season (February 15 through September 15) at and within 0.5 miles of the Project Area. The Designated Biologist or Designated Representative shall provide the survey results to CDFW in a written report at least five days prior to beginning Covered Activities.
- 8.24. SWHA Nest Abandonment Contingency Plan.** The Designated Biologist shall prepare a SWHA Nest Abandonment Contingency Plan and submit it to CDFW for written approval at least 14 days prior to the start of Covered Activities. The plan shall include, but not be limited to, identification of capture methods, handling methods, methods to return SWHA back into the wild, and the identification of a CDFW-approved wildlife rehabilitation center or veterinary facility. The Permittee shall fund the recovery and hacking (controlled release) of the SWHA nestlings. Once the SWHA Nest Abandonment Contingency Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated by CDFW to reflect best available science in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes to the SWHA Nest Abandonment Contingency Plan shall be submitted, in writing, to CDFW and approved in writing prior to implementation of any proposed modifications.
- 8.25. SWHA Nest(s).** If a nesting SWHA is located at or within 0.25-mile of the distinct work area(s) within the Project Area, the Designated Biologist(s) shall be present daily for the entire duration of any Covered Activities occurring during the nesting season (February 15 through September 15) and within 0.25-mile of the active nest, to monitor the behavior of the SWHA. The Designated Biologist(s) shall have the authority to order the cessation of all Covered Activities if the bird(s) exhibits distress and/or abnormal nesting behavior (swooping/stooping, excessive vocalization [distress calls], agitation, failure to remain on nest, failure to deliver prey items for an extended time period, failure to maintain nest, etc.) which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Permittee shall not resume Covered Activities until CDFW has been consulted by the Designated Biologist(s), and both the Designated Biologist(s) and CDFW confirm that the bird's behavior has normalized.
- 8.26. SWHA Nest Buffers.** The Permittee and Designated Biologist(s) shall ensure that no Covered Activities occur within 100 feet of a SWHA nest during the nesting season (February 15 through September 15). The 100-foot no-disturbance buffer shall not be reduced or otherwise modified without prior written CDFW approval. Worker foot traffic, water and restroom facilities, employee break areas (permanent or temporary), and worker vehicle parking is prohibited within 1,000 feet of any SWHA nest without prior written CDFW approval.

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

Western Burrowing Owl Specific Take Minimization Measures:

8.28. Western Burrowing Owl Mortality Reduction Plan. Permittee shall submit a Western burrowing owl (BUOW) Mortality Reduction Plan prepared by the Designated Biologist to CDFW prior to commencing BUOW burrow exclusion, burrow excavation, artificial burrow construction, and other relocation activities (collectively termed BUOW Exclusion Activities). BUOW Exclusion Activities shall not proceed until this plan has been approved in writing by CDFW. The BUOW Mortality Reduction Plan shall include, but not be limited to: detailed description of survey methodology; detailed burrow exclusion and excavation methods; proposed Covered Activities that may be performed within BUOW avoidance buffers; identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured BUOW or care for at-risk BUOW, BUOW eggs, and/or BUOW chicks; and procedure for collection and storage of BUOW carcasses. Only CDFW-approved Designated Biologist(s), or personnel following directions from and under the supervision of the Designated Biologist, are authorized to handle and transport injured BUOW for treatment or impacted BUOW eggs for salvage. All other BUOW handling or capture is prohibited.

Once the BUOW Mortality Reduction Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated by CDFW to reflect best available science in which case CDFW will contact the Permittees to discuss needed updates. Any proposed changes to the BUOW Mortality Reduction Plan shall be submitted, in writing, to CDFW and approved in writing prior to the implementation of any proposed modifications.

8.29. BUOW Artificial Burrow Replacement Plan. Permittee shall replace each known BUOW burrow (as defined in the BUOW Burrow Avoidance Condition of Approval) that cannot be avoided within the Project Area with an artificial burrow to compensate for the loss of important shelter used by BUOW for protection, reproduction, and escape from predators. Permittee shall submit a BUOW Artificial Burrow Replacement Plan prepared by an approved Designated Biologist to CDFW within 30 days of ITP issuance. Implementation of the BUOW Artificial Burrow Replacement Plan shall not proceed until this plan has been approved in writing by CDFW. The BUOW Artificial Burrow Replacement Plan shall include, but not be limited to: a discussion and map of potential artificial burrow replacement

locations; description of the replacement burrow design and dimensions (e.g., depth and width of burrow, width of burrow entrance, orientation of burrow entrance, number and placement of entrances, etc.); artificial burrow installation methods; long-term artificial burrow maintenance methods; and timing of BUOW burrow installation/construction.

Once the BUOW Artificial Burrow Replacement Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated by CDFW to reflect best available science in which case CDFW will contact the Permittees to discuss needed updates. Any proposed changes to the BUOW Artificial Burrow Replacement Plan shall be submitted, in writing, to CDFW and approved in writing by CDFW prior to the implementation of any proposed modifications.

- 8.30. BUOW Pre-Construction Surveys and Reporting.** The Designated Biologist(s) shall conduct surveys to identify potential, known, and/or nesting BUOW burrows (as defined in the BUOW Burrow Avoidance Condition of Approval) prior to beginning BUOW Exclusion Activities in each distinct Work Area(s) (a work site/phase within the Project Area. Surveys shall include the Work Area and 500 feet (where feasible) beyond the limits of the Project Area (or distinct Work Area(s)), unless otherwise approved in advance in writing by CDFW. If the Designated Biologist(s) identifies any potential, known, or nesting BUOW burrows, the burrow(s) shall be monitored following the BUOW Burrow Blockage and BUOW Burrow Excavation Conditions of Approval, unless avoided per the BUOW Burrow Avoidance Condition of Approval. Permittee shall provide the preconstruction survey results with a Burrow Map (see Burrow Map Condition of Approval) in a written report to CDFW's Regional Representative prior to starting BUOW Exclusion Activities in the Project Area or in each distinct Work Area(s). The report shall include, but not be limited to, methodology, survey date, and apparent status of each burrow (potential, known, or nesting).
- 8.31. Burrow Map.** The Designated Biologist shall provide a KMZ map to CDFW of all BUOW burrows found during the surveys performed per the BUOW Pre-Construction Surveys and Reporting Condition of Approval. The map shall show details and locations of all BUOW sightings and potential, known, and nesting BUOW burrows as defined in the BUOW Burrow Avoidance Condition of Approval. The map shall include an outline of the Project Area and any distinct Work Area(s) surveyed within the Project Area, title, north arrow, scale bar, and legend.
- 8.32. BUOW Burrow Avoidance.** The Permittee shall establish no-disturbance buffer zones around potential, known and nesting BUOW burrows according to the following guidelines:

- If a potential BUOW burrow (any subterranean hole three inches or larger for which no evidence is present to conclude that the burrow is being used or any past use by a BUOW) is discovered, the Permittee shall establish a minimum a 50-foot no-disturbance buffer around the burrow.
- If a known BUOW burrow (a burrow that is known to have been used or shows evidence of current or past use) or an "atypical" burrow (e.g., a pipe, culvert, buckled concrete, etc.) showing signs of occupancy (e.g. BUOW presence, whitewash, pellets, prey remains, etc.) is discovered, the Permittee shall establish a minimum no-disturbance buffer of at least 100 feet around the burrow. A no-disturbance buffer of at least 1,600 feet shall be established around known BUOW burrows currently occupied by BUOW during the nesting season (typically February 1 to August 31 in this area).
- If a nesting BUOW burrow used for nesting (e.g. known BUOW burrow indications of the presence of eggs, chicks, dependent young, and/or brooding or egg incubation) is discovered within or immediately adjacent to the Project Area, the Permittee shall notify CDFW's Regional Representative immediately via e-mail. A no-disturbance buffer of at least 1,600 feet shall be established around the nest burrow. A no-disturbance buffer of at least 1,600 feet shall be established around known BUOW burrows currently occupied by BUOW during the nesting season (February 1 to August 31).

If BUOW burrows cannot be avoided as described above, then the Permittees shall follow the BUOW Burrow Blockage, BUOW Burrow Excavation, and BUOW Mortality Reduction Plan Conditions of Approval as appropriate. If BUOW are visibly stressed by the Covered Activities or workers in the vicinity after these no-disturbance buffers are established, all work in the vicinity shall immediately cease and increased no-disturbance buffers will be determined by the Designated Biologist(s) based on their behavioral observations of the affected BUOW.

The buffers prescribed above shall not be reduced or otherwise modified without prior written CDFW approval. If the Designated Biologist determines that specific Covered Activities are not likely to affect the BUOW using known or nesting BUOW burrows due to the nature of the specific Covered Activities and/or due to objects or topography that might reduce potential noise disturbance and obstruct view of the Covered Activities from the nest, then the Designated Biologist may email a written request to CDFW to reduce the buffer distance with documented observational data (Buffer Reduction Request). CDFW will review each Buffer Reduction Request on a case-by-case basis and provide a determination in response to each Buffer Reduction Request in writing. CDFW

may request additional and/or ongoing biological monitoring prior to approving a Buffer Reduction Request.

8.33. BUOW Burrow Blockage. Where CDFW has approved a buffer reduction, the Permittee shall block rather than destroy any BUOW Burrow located within the buffer distances prescribed by the BUOW Burrow Avoidance Condition of Approval, but outside the discrete Work Area(s) within the Project Area where ground- and vegetation-disturbing Covered Activities will be performed. Burrows (including burrows in natural substrate and in/under man-made structures) may be blocked only immediately after the Designated Biologist(s) has conducted four consecutive 24-hour periods of monitoring with infrared camera and determined that BUOW is not currently present. Nesting BUOW nest burrows shall not be blocked until biological and camera monitoring confirm that the chicks and adults have vacated the burrow and/or the chicks have fledged, and are no longer dependent on the nest, and CDFW provides written concurrence. Burrow blockage shall be done in a manner that prevents burrowing animals from digging back into the burrow. All blocked burrows shall be monitored by the Designated Biologist(s) or Designated Monitor(s) at least once a week to ensure that the exclusion material is still intact. If BUOW regains access to the burrow, the Permittee shall contact CDFW immediately and obtain written guidance regarding how to proceed. All blocked burrows shall be unblocked within 48 hours of completion of Construction Covered Activities within the prescribed buffer distance.

8.34. BUOW Burrow Excavation. The Designated Biologist, or Designated Monitor under direct supervision of the Designated Biologist, shall excavate known or potential burrows that exhibit signs of current or past BUOW use or characteristics suggestive of a BUOW burrow (including burrows in natural substrate and in/under man-made structures) that cannot be avoided per the BUOW Burrow Avoidance Condition of Approval and that are within the Project Area. Burrows to be destroyed shall be fully excavated, filled with dirt, and compacted to ensure that BUOW cannot reenter or use the burrow during the period that Covered Activities occur in the Project Area. If an individual BUOW does not vacate a burrow within a reasonable timeframe, Permittee shall consult with CDFW for written guidance before proceeding with burrow excavation. An established BUOW burrow no-disturbance buffer may be removed once the burrow is collapsed and BUOW are no longer using the burrow.

- Excavation of known BUOW burrows shall only occur after the Designated Biologist has determined that BUOW is not currently present after 4 consecutive 24-hour periods of monitoring with infrared cameras. If the excavation process reveals evidence of current use by BUOW, then burrow excavation shall cease immediately, and camera monitoring as described above shall be conducted/resumed. BUOW burrows shall be carefully excavated with hand tools, or by mechanical means if a

specific methodology is approved in writing by CDFW, until it is clear no individuals of BUOW are inside.

- Potential BUOW burrows without any signs of BUOW use or characteristics suggesting it is a BUOW burrow may be excavated under the direct supervision of the Designated Biologist without camera monitoring.
- Nesting BUOW burrows used for nesting shall not be excavated until biological and camera monitoring confirm that the chicks have fledged and are no longer dependent on the nest and then only after written concurrence from CDFW.

8.35. Restrictions for Nightwork. Permittee shall ensure that any nightwork done in the vicinity of an occupied BUOW burrow follows the BUOW Burrow Avoidance Condition of Approval. Permittee shall ensure that no permanent or temporary, fixed, exterior lighting, including motion-triggered security lighting, will cast light on BUOW habitat beyond the Project Area. The Designated Biologist(s) shall be on-site during all non-emergency vegetation or ground disturbing Covered Activities performed at night. Permittees shall ensure that all vehicle traffic necessary during nighttime Covered Activities be conducted at speeds of less than 10 mph to minimize impacts to Covered Species.

8.36. BUOW Injury. If a BUOW is injured or found dead within the vicinity of the Project Area, the Permittee shall notify CDFW of the injury or mortality to the BUOW immediately by e-mail as described in the Notification of Take or Injury Condition of Approval. The Designated Biologist shall follow the BUOW Mortality Reduction Plan to either immediately transport injured individuals to a CDFW-approved wildlife rehabilitation center or veterinary facility or follow approved collection and storage procedures for deceased animals. Permittees shall bear any cost associated with care and recovery of any injured BUOW adults, nestling(s) or egg(s) and hacking (controlled release of captive reared young).

O&M Phase Covered Activities Take Minimization Measures

8.37. O&M Covered Activities. Permittee shall implement Conditions of Approval General Provisions and Monitoring, Notification and Reporting Provisions of this ITP for all O&M Covered Activities as applicable.

8.38. O&M Covered Activities Designated Biologist(s) On-site. The CDFW-approved Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) as applicable, shall be on-site during all ground- and vegetation-disturbing activities. The Designated Biologist(s) shall be on-site during all non-emergency ground- and vegetation-disturbing Covered Activities performed at night.

- 8.39. O&M Covered Activities Work Hours.** Permittee shall confine any O&M Covered Activities to daylight hours (sunrise to sunset) with the exception of any O&M or replacement work that must occur after dark to ensure PV arrays are not energized, emergency response activities (e.g. catastrophic failures, security issues, etc.), or Covered-Species-specific take minimization measures as applicable. Permittee shall ensure that all vehicle traffic necessary during nighttime Covered Activities be conducted at speeds of less than 10 mph to minimize impacts to Covered Species.
- 8.40. O&M Covered Activities Vehicle Parking.** During all O&M Covered Activities or Covered Species-specific take minimization measures, Permittee shall not allow vehicles to park on top of potential Covered Species burrows or dens, or within 100 feet of an active SWHA nest. Vehicles left overnight shall not be located within 50 feet of Covered Species burrows or dens (known or potential), or within 100 feet of an active SWHA nest.
- 8.41. O&M Phase Vehicle and Equipment Inspection.** During the O&M phase, workers shall inspect for Covered Species under vehicles and equipment every time the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) or Designated Surveyor(s) shall be contacted to determine if the animal can be safely moved under the Conditions of Approval of this ITP.
- 8.42. O&M Covered Activities Pipes and Materials Inspection.** Permittee shall ensure that all pipes or similar materials stockpiled or replaced in the Project Area be capped or otherwise enclosed at the ends to prevent entry by Covered Species. Permittee shall not leave any permanent pipes or similar materials or structures open where Covered Species may enter them and become trapped. Workers shall thoroughly inspect all such materials for Covered Species before they are moved, buried, or capped. If a Covered Species is discovered inside such material, that section of material shall not be moved until the Covered Species has escaped of its own accord. If a Covered Species inside such materials does not vacate on its own volition within a reasonable timeframe, Permittee shall contact CDFW to obtain written concurrence via email prior to proceeding with eviction of the Covered Species.
- 8.43. O&M of Retention Basin Entrapment Prevention.** Permittee shall ensure that Retention Basins' wildlife escape and prevention materials are maintained in effective condition. Maintenance inspections of these features shall be conducted as appropriate. Should any failures be discovered, Permittee shall make necessary repairs immediately to ensure that Covered Species can escape or are prevented from entry. If permanent repairs cannot be immediately completed (within 24 hours) then temporary repairs shall be put in place until the permanent repair can be reasonably completed. Inspection of temporary repairs shall be completed daily to ensure effectiveness of wildlife escape and/or entry exclusion until the permanent repair can be completed.

- 8.44. O&M Covered Activities Covered Species Observations.** During all O&M Covered Activities within the Project Area, all workers shall inform the Designated Biologist(s) or Designated Surveyor(s) if a Covered Species is observed within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until the Covered Species moves from the Project Area of its own accord.
- 8.45. O&M Covered Activities BNLL Burrow Avoidance.** Unless otherwise approved in writing by CDFW, the Designated Biologist(s) or Designated Surveyor(s) shall establish a no-disturbance buffer of 50 feet or greater around potential burrows that could be occupied by BNLL, suspected, or known to be occupied by BNLL for all ground- or vegetation-disturbing O&M Covered Activities. If the 50-foot no-disturbance buffer cannot be established; live capture, relocation or translocation, and burrow excavation shall occur in accordance with Conditions of Approval BNLL Mortality Reduction and Relocation Plan, BNLL Individual Avoidance, BNLL Relocation, BNLL Relocation Weather Constraints, and BNLL Burrow Excavation.
- 8.46. O&M Covered Activities SJKF Den Avoidance.** Unless otherwise approved in writing by CDFW, if a potential or atypical SJKF den (any subterranean hole, three inches or larger) is located, SJKF den avoidance shall occur in accordance with Condition of Approval SJKF Den Avoidance prior to conducting ground- or vegetation-disturbing O&M Covered Activities. If the no-disturbance buffers cannot be established, then den blockage or excavation and replacement (if applicable) shall occur in accordance with Conditions of Approval SJKF Den Blockage, SJKF Den Excavation, and SJKF Den Replacement Plan as appropriate.
- 8.47. O&M Covered Activities SWHA Nest Avoidance.** Unless otherwise approved by CDFW, the Designated Biologist(s) shall establish a 100-foot no disturbance buffer around all active SWHA nest(s) during the nesting season (February 15 through September 15). The 100-foot no-disturbance buffer shall not be reduced or otherwise modified without prior written CDFW approval. Worker foot traffic, water and restroom facilities, employee break areas (permanent or temporary), and worker vehicle parking is prohibited within 1,000 feet of any SWHA nest without prior written CDFW approval. If an active nest is abandoned or a SWHA is injured, the Designated Biologist(s) shall follow the CDFW approved SWHA Nest Abandonment Contingency Plan and Condition of Approval SWHA Injury as applicable.
- 8.48. O&M Covered Activities BUOW Burrow Avoidance.** Unless otherwise approved in writing by CDFW, if a potential, known, or nesting BUOW burrow is identified, BUOW burrow avoidance shall occur in accordance with Condition of Approval BUOW Burrow Avoidance prior to conducting ground- or vegetation-disturbing O&M Covered Activities. If the no-disturbance buffers cannot be established, then den blockage or excavation and replacement (if applicable) shall occur in accordance with Conditions of Approval BUOW Burrow Blockage and BUOW Excavation, BUOW Burrow Mortality Reduction Plan, and BUOW Artificial Burrow Replacement Plan as appropriate.

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

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

To meet this requirement, the Permittee shall provide for both the permanent protection and management of 3,993 acres of Habitat Management (HM) lands pursuant to the Condition of Approval Habitat Management Lands Acquisition and Protection and the calculation and deposit of the management funds pursuant to the Condition of Approval Endowment Fund. The Permittee has proposed specific properties known as the Spanish 7, LLC properties (hereafter, Spanish 7 Lands) as HM lands, which are depicted in Figure 4. CDFW has conceptually agreed to the biological appropriateness of the Spanish 7 Lands as they are comprised of high-quality grassland habitat and are known to be occupied by BNLL individuals, SJKF denning and foraging individuals, SWHA foraging individuals, and active BUOW burrows. Further, the Spanish 7 Lands proposed HM Lands provides essential connectivity for the Covered Species and will secure important genetic connectivity for BNLL between the Antelope Plain Population with the Lokern and Buena Vista Populations of the Western Kern County Core Recovery Area (Richmond et al. 2017). Conservation of the Spanish 7 Lands would contribute to multiple recovery actions for the Covered Species listed in the Upland Species of the San Joaquin Valley Recovery Plan (Recovery Plan) written by the USFWS and published on September 30, 1998. Specifically, for BNLL, conservation of the Spanish 7 Lands will help achieve Recovery Action 3.d. *Protecting additional habitat for BNLL in key portions of their range; areas of highest priority to target for protection which includes natural lands west of Highway 33 and east of the coastal ranges between the Pleasant Valley, Fresno County, on the north and McKittrick Valley, Kern County on the south.* In addition, conservation of the Spanish 7 Lands and the required management in perpetuity will allow Recovery Action 1. of the Recovery Plan to be achieved by *determining appropriate habitat management and compatible land uses for BNLL.* Should conservation of the Spanish 7 Lands be infeasible, Permittee shall ensure that an alternative 3,993 acres of HM Lands are provided which

are comparable or better in habitat quality than the Spanish 7 Lands and are occupied by the Covered Species, provide regional importance to the conservation of BNLL, and achieve one or more Recovery Actions of the Recovery Plan for BNLL.

The permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 24 months of the effective date of this ITP if Security is provided pursuant to the Condition of Approval Security, for all uncompleted obligations.

9.1. Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands as follows:

- 9.1.1. Land acquisition costs for HM lands identified in the Condition of Approval Habitat Management Lands Acquisition and Protection, estimated at **\$2,318.00/acre** for 3,993 acres: **\$9,255,774.00**. Land acquisition costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;
- 9.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in the Conditions of Approval Fee Title and Conservation Easement estimated at: **\$423,600.00**;
- 9.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in the Condition of Approval Start-up Activities, estimated at: **\$37,001.25**;
- 9.1.4. Interim management period funding as described in the Condition of Approval Interim Management (Initial and Capital), estimated at: **\$972,890.63**;
- 9.1.5. Long-term management funding as described in the Condition of Approval Endowment Fund, estimated at **\$381.33/acre** for 3,993 acres: **\$1,522,673.46** Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
- 9.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in the Condition of Approval Reimburse CDFW, estimated at: **\$12,000.00**.
- 9.1.7. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for

proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work estimated at: **\$42,000.00**.

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

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

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9.2.5. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.

9.2.6. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&inline>) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;

9.2.7. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management.

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

9.3. Endowment Fund. The Permittee shall provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, thus the Permittee shall ensure that the HM lands are perpetually managed, maintained,

and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by the Condition of Approval Land Manager. 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.

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

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

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

- 9.3.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.
- 9.3.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.
- 9.3.2.2. Endowment Buffers/Assumptions. Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:
- 9.3.2.2.1. 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.
- 9.3.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
- 9.3.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.
- 9.3.3. 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.
- 9.3.4. Management of the Endowment. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

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

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

10. Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by the Condition of Approval Habitat Management Land Acquisition 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 **\$12,265,939.34**, or in the amount identified in the Condition of Approval Cost Estimates specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in the Condition of Approval Cost Estimates, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.

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's Office of the General Counsel.

10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 6 months 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 Transmittal. Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.

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 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 acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 24 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

X. 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, fully mitigated and for BNLL, contribute to the conservation of the species

XI. 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

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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(s), Designated Surveyor(s), Designated Monitor(s), nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

XII. 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.

XIII. 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 (2081-2023-055-04) 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) 243-4005
RRR.R4@wildlife.ca.gov

and a copy to:

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

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

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Jim Vang
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, CA 93710
(559) 580-3203
Jim.Vang@wildlife.ca.gov

XIV. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, Kern County. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Pelicans Jaw Hybrid Solar Project (SCH No.: 2022110558), dated November 23, 2022, that Kern County certified for Pelican's Jaw Hybrid Solar Project on December 5, 2023. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

XV. 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); Fish & G. Code § 5050 (a)(3)(b)(1); Fish & G. Code § 2081.15, subd. (a) (b)(5), (c) and (d).

CDFW finds based on substantial evidence in the ITP application, Pelicans Jaw Solar Project, by Pelicans Jaw Solar, LLC, 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;

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- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Quarterly and Annual Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW’s estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 3,993 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project.

At the time of issuance of this ITP, the Permittee proposed HM lands known as the Spanish 7 Lands which are conceptually approved by CDFW and are of higher quality habitat than the habitat being impacted. The Spanish 7 Lands are comprised of high-quality grassland habitat and is known to be occupied by individuals of the Covered Species. Further, the Spanish 7 Lands provide essential connectivity for the Covered Species and will secure important genetic connectivity for BNLL between the Antelope Plain Population with the Lokern and Buena Vista Populations of the Western Kern County Core Recovery Area (Richmond et al. 2017). Conservation of the Spanish 7 Lands contributes to multiple recovery actions for the Covered Species listed in the USFWS Recovery Plan (USFWS 1998). Specifically, for BNLL, conservation of the Spanish 7 Lands will achieve Recovery Action 3.d. *Protecting additional habitat for BNLL in key portions of their range; areas of highest priority to target for protection which includes natural lands west of Highway 33 and east of the coastal ranges between the Pleasant Valley, Fresno County, on the north and McKittrick Valley, Kern County on the south.* In addition, conservation of the Spanish 7 Lands and the required management in perpetuity will allow Recovery Action 1. of the Recovery Plan to be achieved by *determining appropriate habitat management and compatible land uses for BNLL.* Should conservation of the Spanish 7 Lands be infeasible, Permittee is required to provide an alternative 3,993 acres of HM Lands which are comparable or better in habitat quality than the Spanish 7 Lands and are occupied by the Covered Species, provide regional importance to the conservation of BNLL, and achieve one or more Recovery Actions of the Recovery Plan for BNLL.

- (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 take monitoring program (Condition of Approval Compliance Monitoring), adaptive management as required in the Condition of Approval BNLL Mortality Reduction and Relocation Plan, as well as the HM Land acquisition and the associated land management and monitoring activities satisfy the requirement for additional measures to satisfy the

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conservation standard of subdivision (d) of Fish and Game Code section 2805, specifically for BNLL.

- (5) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (6) All required measures are capable of successful implementation;
- (7) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (8) 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
- (9) 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.

XVI. Literature Cited:

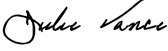
Richmond J., D. Wood, M. Westphal, et al. 2017. Persistence of historical population structure in an endangered species despite near-complete biome conversion in California's San Joaquin Desert. *Mol Ecol.* 2017;26: 3618–3635.

U. S. Fish and Wildlife Service. 1998. Recovery plan for upland species of the San Joaquin Valley, California. Region 1, Portland, OR. 319 pp.

XVII. Attachments:

FIGURE 1	Project Location
FIGURE 2	Project Site Plan
FIGURE 3	Project Site During Operations and Maintenance
FIGURE 4	Proposed HM Lands (Spanish 7 Lands)
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form
ATTACHMENT 5	Retention Basins Table
ATTACHMENT 6	Major Amendment No. 1 with Track Changes

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 1/24/2025

DocuSigned by:

FA83F09FE08045A...

Julie A. Vance, Regional Manager
Central Region

Incidental Take Permit
No. 2081-2023-055-04
PELICANS JAW SOLAR, LLC
PELICANS JAW HYBRID SOLAR PROJECT

FIGURE 1
Project Location

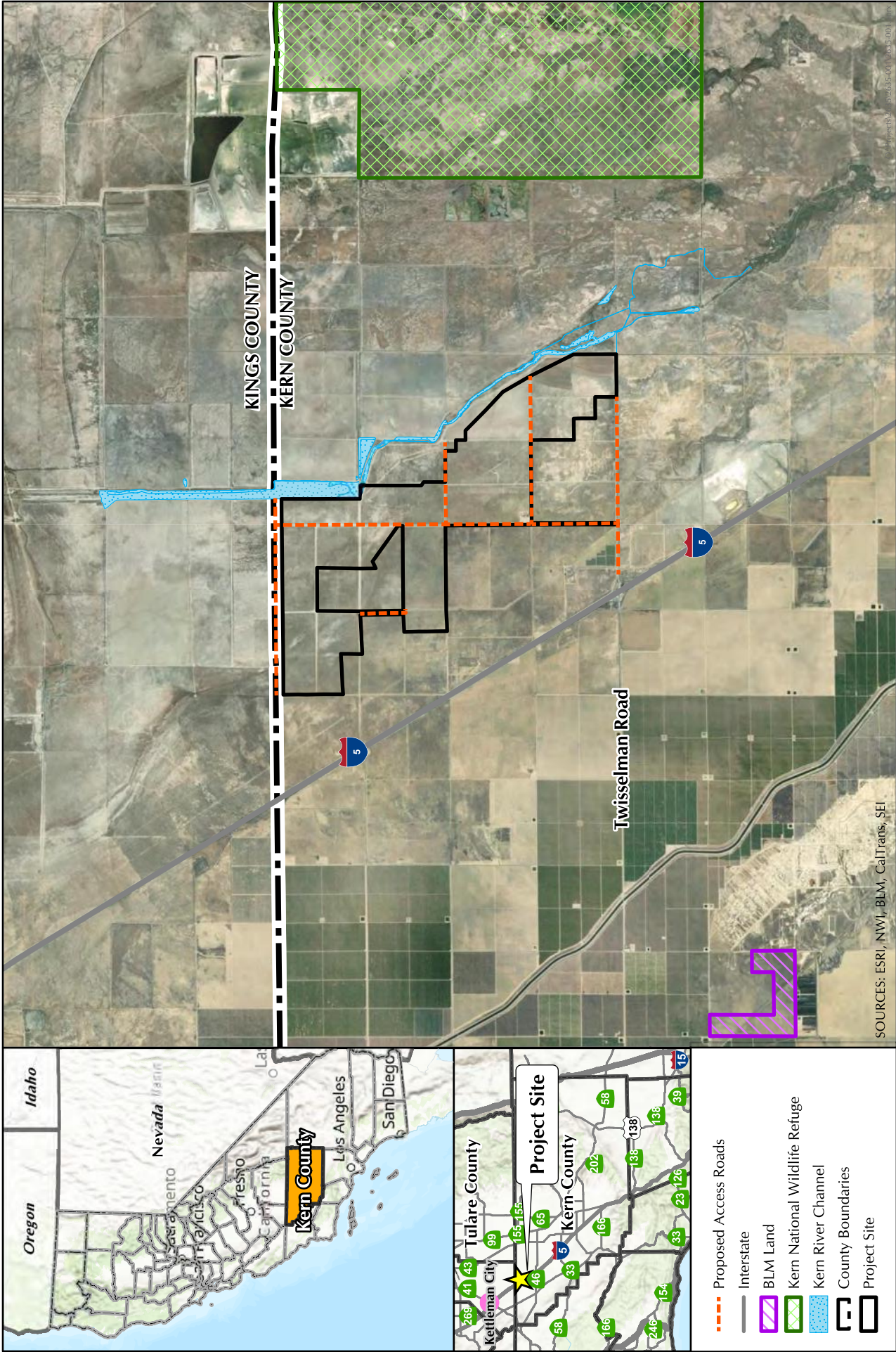
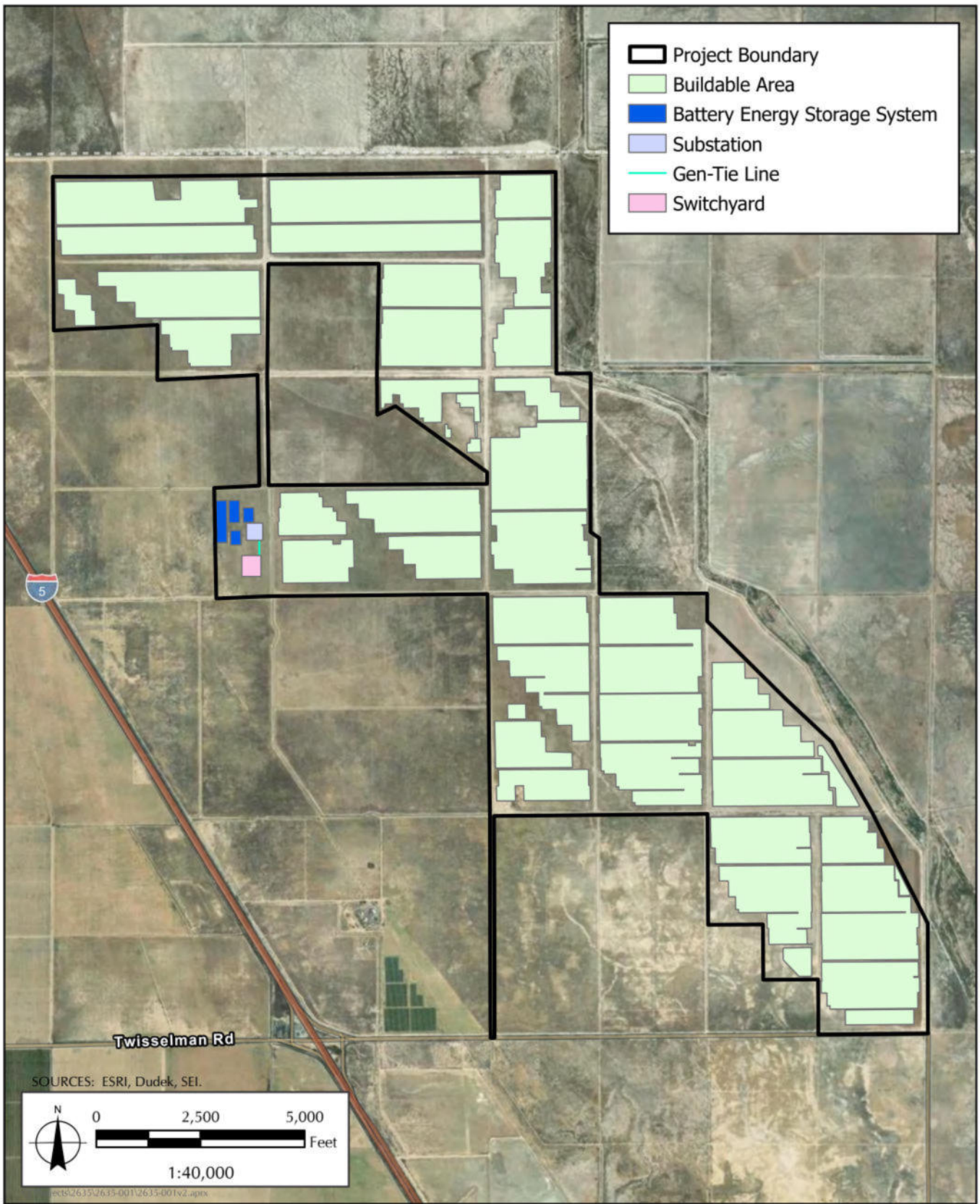


FIGURE 1
Project Location

0 4,000 8,000 Feet
1:100,000

FIGURE 2
Project Site Plan



Note: Buildable area subject to modification based on final site plan design.

F
Project Site Plan

FIGURE 3

Project Site During Operations and Maintenance

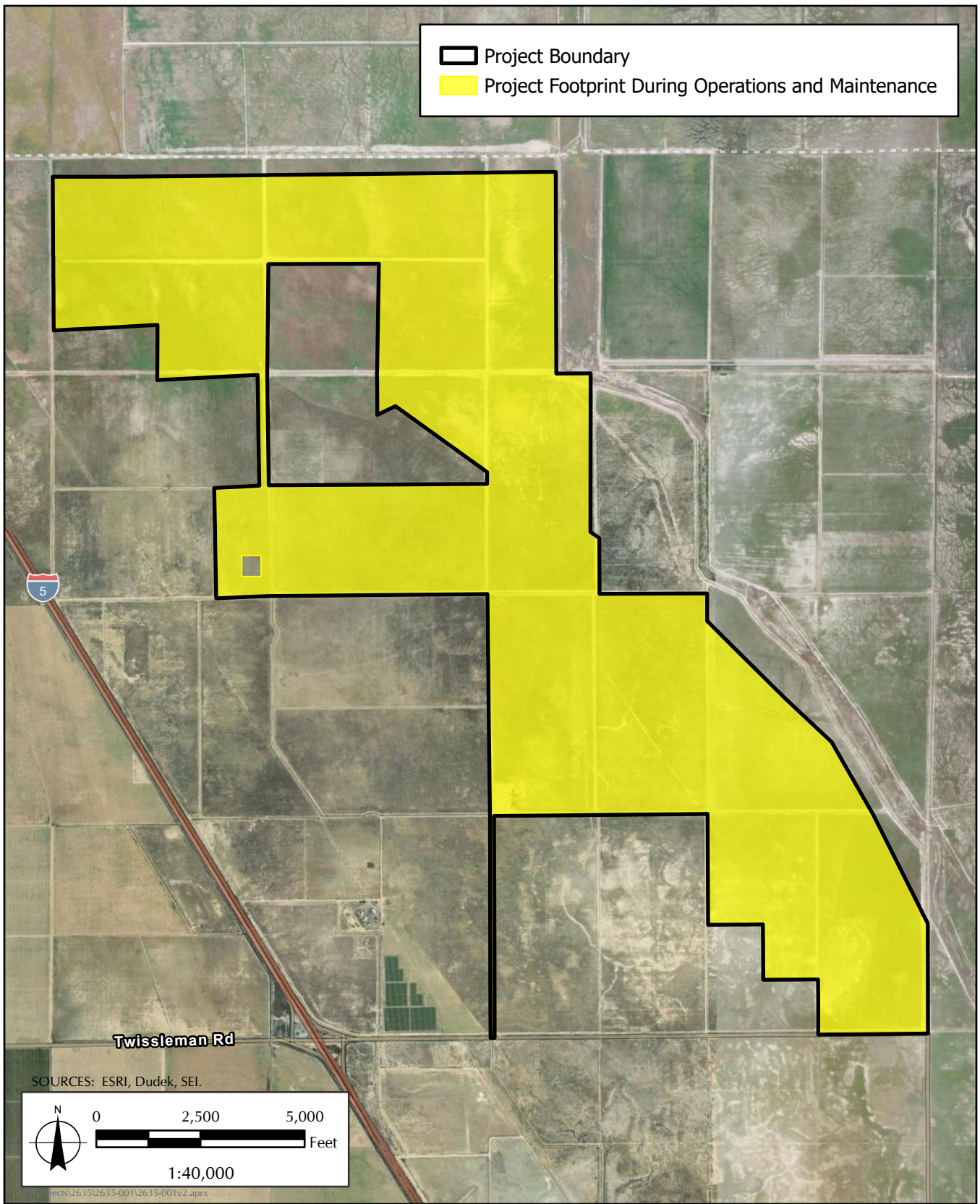






FIGURE 3
Project Site During Operations and Maintenance

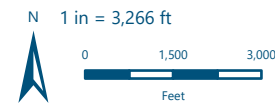
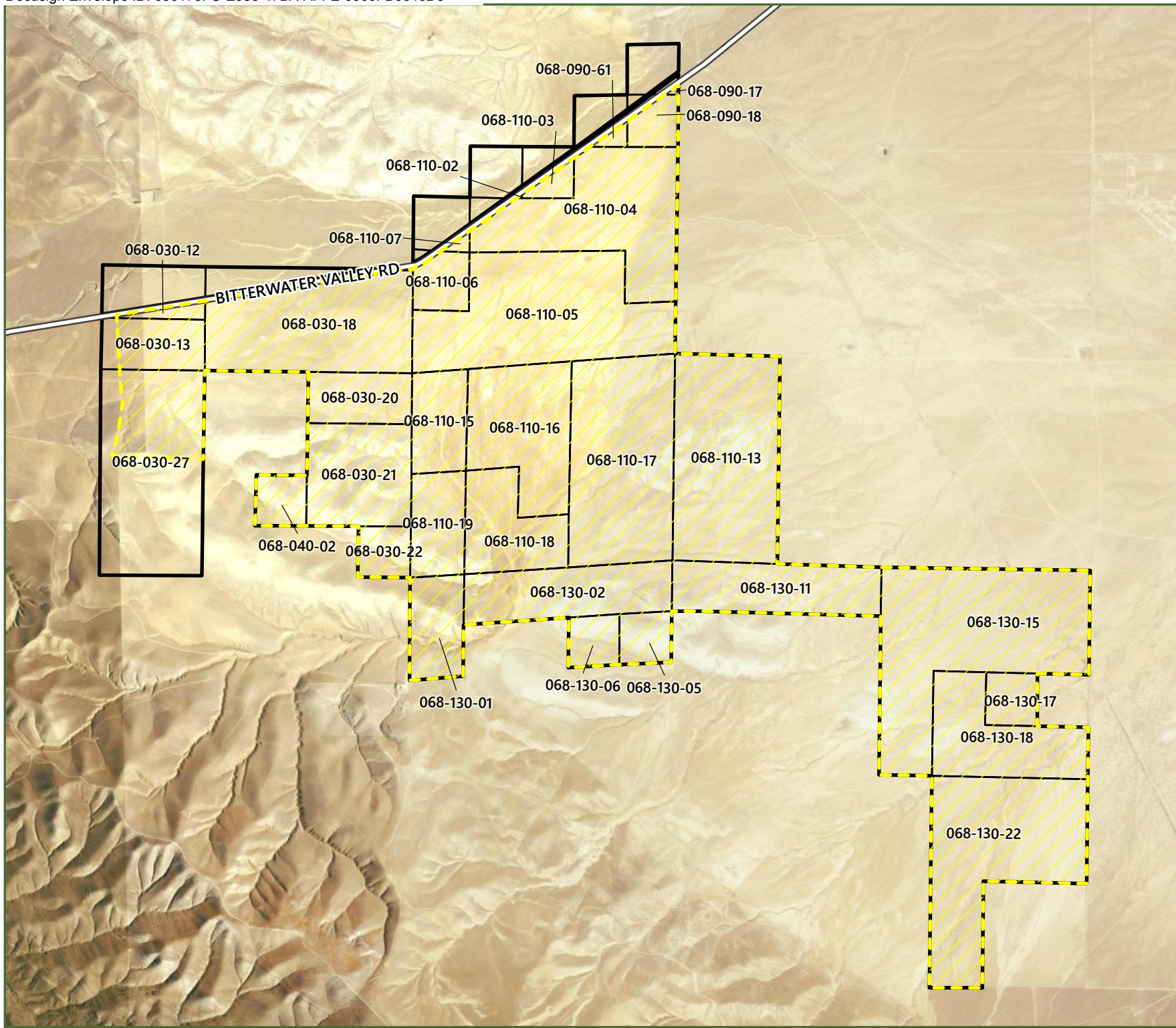
FIGURE 4

Proposed HM Lands (Spanish 7 Lands)

Figure 4
Mitigation Property

Pelicans Jaw
Kern County, California
119.964°W 35.5602°N

-  Public Road - Paved
-  Easement ± 4,028.87 ac
-  Property Boundary ± 4,540.82 ac
-  Parcels



Reference: Project limits are approximate. The property boundaries depicted on this map have not been surveyed and are for prospect assessment purposes only. This information is not to be used as final legal boundaries.

Data Source: Parcel data from Dynamo Spatial 2/5/2020.

Spatial Reference: NAD 1983 2011 StatePlane California IV FIPS 0404 Ft US

Date Exported: 3/11/2024



ATTACHMENT 1

Mitigation Monitoring and Reporting Program

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2023-055-04

PERMITTEE: Pelicans Jaw Solar, LLC

PROJECT: Pelicans Jaw Hybrid Solar Project

PURPOSE OF THE MMRP

The purpose of this MMRP is to ensure that the impact minimization and mitigation measures required by the California Department of Fish and Wildlife (CDFW) for the above-referenced Project are properly implemented, and thereby to ensure compliance with section 2081(b) of the Fish and Game Code and section 21081.6 of the Public Resources Code. A table summarizing the mitigation measures required by CDFW is attached. This table is a tool for use in monitoring and reporting on implementation of mitigation measures, but the descriptions in the table do not supersede the mitigation measures set forth in the California Incidental Take Permit (ITP) and in attachments to the ITP, and the omission of a permit requirement from the attached table does not relieve the Permittee of the obligation to ensure the requirement is performed.

OBLIGATIONS OF PERMITTEE

Mitigation measures must be implemented within the time periods indicated in the table that appears below. Permittee has the primary responsibility for monitoring compliance with all mitigation measures and for reporting to CDFW on the progress in implementing those measures. These monitoring and reporting requirements are set forth in the ITP itself and are summarized at the front of the attached table.

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

CDFW may, at its sole discretion, verify compliance with any mitigation measure or independently assess the effectiveness of any mitigation measure.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Source, Implementation Schedule, Responsible Party, and Status/Date/Initials. The Mitigation Measure column summarizes the mitigation requirements of the ITP. The Source column identifies the ITP condition that sets forth the mitigation measure. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure. The Status/Date/Initials column shall be completed by the Permittee during preparation of each Status Report and the Final Mitigation Report, and must identify the implementation status of each mitigation measure, the date that status was determined, and the initials of the person determining the status.

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Designated Representative.</u> Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.</p>	<p>Condition of Approval #6.1</p>	<p>Before Starting Covered Activities</p>	<p>Permittee</p>	
<p><u>Designated Biologist(s), Designated Surveyor(s), and Designated Monitor(s).</u> Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s), Designated Surveyor(s), and Designated Monitor(s) using the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 30 days before starting Covered Activities. The Designated Monitor(s) may assist the Designated Biologist(s) and Designated Surveyor(s) in compliance monitoring under the direct supervision of the Designated Biologist(s) or Designated Surveyor(s).</p> <p>Permittee shall ensure that the Designated Biologist(s) and Designated Surveyor(s) for blunt-nosed leopard lizard, San Joaquin kit fox, and Swainson's hawk are knowledgeable and experienced in the biology, natural history, capturing, handling, and relocating of the applicable Covered Species. Permittees shall ensure that the Designated Biologist for western burrowing owl is knowledgeable and experienced in the biology, natural history, surveying, monitoring, and exclusion techniques. Permittee shall also ensure that the Designated Biologist(s) is experienced in the excavation of burrows or dens actively used by the Covered Species, as applicable, and in the monitoring of construction activities under an ITP for the Covered Species. Due to the recent regulatory change addressing take of BNLL, alternative experience for a Designated Biologist approved for BNLL may be substituted at CDFW's discretion that equals the depth or breadth of experience that handling, relocating, and excavation of burrows would bring. Permittee shall ensure that the Designated Surveyor(s) and Designated Monitor(s) are knowledgeable and experienced in the biology and natural history of the applicable Covered Species. The Designated Biologist(s), Designated Surveyor(s), and Designated 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), Designated Surveyor(s), and Designated Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) must be changed.</p>	<p>Condition of Approval #6.2</p>	<p>Before Starting Covered Activities</p>	<p>Permittee</p>	
<p><u>Designated Biologist(s), Designated Surveyor(s), and Designated Monitor(s) Authority.</u> To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) shall immediately stop any activity that does not comply with the ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) in the performance of his/her duties. If the Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) is unable to comply with the ITP, then they 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(s), Designated Surveyor(s), or Designated Monitor(s) that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of the ITP.</p>	<p>Condition of Approval #6.3</p>	<p>Entire Project</p>	<p>Permittee</p>	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Education Program.</u> Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist(s) or Designated Surveyor(s) that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP.</p> <p>Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.</p>	Condition of Approval #6.4	Before Starting Covered Activities	Permittee	
<p><u>Construction Monitoring Documentation.</u> The Designated Biologist(s), Designated Surveyor(s), and Designated 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 the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project Area upon request by CDFW.</p>	Condition of Approval #6.5	During Project Construction	Permittee	
<p><u>Trash Abatement.</u> Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.</p>	Condition of Approval #6.6	Entire Project	Permittee	
<p><u>Dust Control.</u> Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist(s), Designated Surveyor(s), and Designated Monitor(s). Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles. Dust palliatives or other soil stabilizers shall not be used during construction or O&M activities without specific prior written approval by CDFW. If palliatives are proposed for use within the Project Area, Permittee shall submit a plan that includes, at a minimum, an area map indicating where palliatives will be used, the application frequency, the aquatic and terrestrial toxicity data, and the material safety data sheets to the Regional Representative and Regional Office identified in Condition of Approval <u>Quarterly Compliance Report</u> below. Permittee shall not apply dust suppressant, surfactant, soil binders or stabilizer products that may be harmful to Covered Species in upland or aquatic environments.</p>	Condition of Approval #6.7	Entire Project	Permittee	
<p><u>Erosion Control Materials.</u> Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting, photodegradable mesh (erosion control matting) or similar material, in potential Covered Species' habitat. Permittee shall only deploy erosion control mats, blankets, or coir rolls that consist of natural-fiber, biodegradable materials.</p>	Condition of Approval #6.8	Entire Project	Permittee	
<p><u>Delineation of Property Boundaries.</u> Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in the Project Area and remove and properly dispose of any temporary delineation materials upon completion of activities in the Project Area.</p>	Condition of Approval #6.9	Before Starting Covered Activities	Permittee	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<u>Delineation of Habitat.</u> Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat. All delineation materials shall be removed and disposed of properly upon completion of activities in the Project Area.	Condition of Approval #6.10	Entire Project	Permittee	
<u>Project Access.</u> Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	Condition of Approval #6.11	Entire Project	Permittee	
<u>Staging Areas.</u> Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in the Condition of Approval <u>Project Access</u> .	Condition of Approval #6.12	Entire Project	Permittee	
<u>Hazardous Waste.</u> Permittee shall immediately stop and, pursuant to pertinent State and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site in accordance with all applicable state and federal statutes and in a manner that precludes any possibility for direct exposure to Covered Species. Permittee shall ensure that all fueling, or maintenance of vehicles or equipment shall occur within established O&M buildings or designated staging areas and shall not occur within 200 feet of potential Covered Species burrows or dens, unless approved in advance and in writing by CDFW.	Condition of Approval #6.13	Entire Project	Permittee	
<u>CDFW Access.</u> Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	Condition of Approval #6.14	Entire Project	Permittee	
<u>Refuse Removal.</u> Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	Condition of Approval #6.15	Upon Completion of Covered Activities	Permittee	
<u>Lighting.</u> All temporary and permanent outdoor lighting shall be aimed at the ground, shielded to prevent light from shining skyward, of minimum wattage necessary for safety and activity, and of motion-sensor type to prevent continuous nighttime lighting.	Condition of Approval #6.16	Entire Project	Permittee	
<u>Herbicide Use.</u> Permittee shall limit herbicide use to treat and control invasive plant species only and shall only apply herbicide after hand or mechanical efforts have been ineffective. Permittee shall ensure that all application of herbicide is done by a licensed applicator in accordance with all applicable federal, State, and local laws and regulations. Herbicide sprays shall be used only when wind speeds are less than 10 miles per hour and all sprays shall contain a dye to prevent overspray. If herbicides must be used, Permittee shall consult with CDFW and obtain written approval from CDFW prior to application.	Condition of Approval #6.17	Entire Project	Permittee	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Rodenticides, Pesticides, and Insecticides.</u> Permittee shall not use rodenticides, pesticides, and/or insecticides on the Project Area without prior written permission from CDFW. Permittee shall not use any second-generation anticoagulant rodenticide (brodifacoum, bromadiolone, difethialone, and difenacoum) on the Project Area. Permittee shall not use any first-generation anticoagulant rodenticide (diphacinone, chlorophacinone, and warfarin) on the Project Area without prior written permission from CDFW. If pesticides must be used, Permittee shall consult with CDFW and obtain written approval from CDFW prior to their use.</p>	Condition of Approval #6.18	Entire Project	Permittee	
<p><u>Dogs.</u> Permittee shall prohibit domestic and working dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or federal, State, or local law enforcement officials.</p>	Condition of Approval #6.19	Entire Project	Permittee	
<p><u>Wildfire Avoidance.</u> Permittee or Permittee’s contractors shall minimize the potential for human-caused wildfires by carrying water or fire extinguishers and shovels in all Project-related vehicles and equipment. The use of shields, protective mats, or use of other fire preventative methods shall be used during grinding and welding to minimize the potential for fire.</p>	Condition of Approval #6.20	Entire Project	Permittee	
<p><u>Permanent Security Fencing Plan.</u> Permittee or Permittee’s contractor shall develop and submit a Permanent Security Fencing Plan for CDFW review and written approval a minimum of 14 calendar days before starting Covered Activities, to the Regional Representative and Regional Office identified in the Condition of Approval <u>Quarterly Compliance Report</u>. The Permanent Security Fencing Plan shall include, but not be limited to the fencing materials, design, installation methods, installation locations, and post-construction augmentation plans. Permanent security fencing around the solar panel “blocks” and the Project Area as a whole (excluding the O&M building(s) and substation(s)), shall be modified for wildlife permeability by lifting or knuckling under to allow a gap from the ground to the bottom of the fence, between 4 and 6 inches, to allow for Covered Species permeability and use of the Project Area once construction activities are completed.</p>	Condition of Approval #6.21	Before Starting Covered Activities	Permittee or Permittee’s Contractor	
<p><u>Notification Before Commencement.</u> The Designated Representative shall notify CDFW before starting construction phase Covered Activities and O&M phase Covered Activities within the Project Area and shall provide CDFW with documentation of compliance with all pre-Project Conditions of Approval before starting either phase.</p>	Condition of Approval #7.1	Before Starting Covered Activities	Designated Representative	
<p><u>HDD Plan.</u> The Designated Representative shall notify CDFW at least 14 calendar days before starting HDD activities in the Project Area and shall prepare a HDD Plan. The HDD Plan shall include but not be limited to, a discussion (and map) of the portion of the Project Area where the activities will occur, a description of the activities that will be completed, “take” minimization and avoidance measures for Covered Species, frac out monitoring, frac out planned response, and any other pertinent information. The HDD Plan shall be submitted to CDFW for written approval prior to starting such Covered Activities. Such Covered Activities may not proceed until the HDD Plan approval is received.</p>	Condition of Approval #7.2	Entire Project	Designated Representative	
<p><u>Notification of Non-Compliance.</u> The Designated Representative, Designated Biologist(s), or Designated Surveyor(s), shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with the ITP and suggested measures to remedy the situation.</p>	Condition of Approval #7.3	Entire Project	Designated Representative or Designated Biologist (s)	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Compliance Monitoring.</u> The Designated Biologist(s) or Designated Surveyor(s) shall be on-site daily, for the duration of the day, when construction Covered Activities or ground- or vegetation-disturbing O&M Covered Activities occur. Ground- and vegetation-disturbing activities include any action that modifies the existing ground or vegetated surface. Examples include the use of string trimmers, mowing, application of herbicide, trenching, grading, etc. Operation of vehicles on established roads that have been properly maintained is not considered ground- or vegetation-disturbing activity. The Designated Biologist(s) or Designated Surveyor(s) shall be on-site during construction for a minimum of once every 14 days during periods of inactivity, after clearing, grubbing, and grading are completed. The Designated Biologist(s) or Designated Surveyor(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 the ITP; (4) check all exclusion and/or buffer zones; (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area; (6) maintain an on-going account of the number of acres that are permanently disturbed by the Project; (7) document the Covered Activities that occurred; and (8) assess the adequacy of the mitigation and conservation strategies resulting from the measures of the ITP to provide information to direct the adaptive management of Covered Activities.</p> <p>Until completion of construction Covered Activities and during active construction, the Designated Representative, Designated Biologist(s), or Designated Surveyor(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 the ITP.</p>	Condition of Approval #7.4	Entire Project	Designated Representative, Designated Biologist(s), or Designated Monitor(s)	
<p><u>As-Built Development Plans.</u> No later than 45 calendar days after completion of all construction phase Covered Activities, Permittee shall submit as-built development plans. The as-built plan-sheets shall delineate and quantify the extent of permanent Project features, including roads, utilities and all other facilities and features associated with the Project. The as-built plans shall include an estimate of the permanent disturbance during construction by highlighting the estimated disturbance areas on the as-built plan-sheets. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. As-built plans shall be derived from survey data acquired after the Project construction phase has been completed and shall be verified by the Designated Biologist(s) or Designated Surveyor(s). The as-built plans shall be submitted in electronic format (e-mail or other available document repository/share site) to CDFW following the directions provided in Condition of Approval <u>Quarterly Compliance Report</u>.</p>	Condition of Approval #7.5	After Completion of Initial Construction Activities	Designated Representative, Designated Biologist(s), or Designated Monitor(s)	
<p><u>Quarterly Compliance Report (Construction Phase).</u> The Designated Representative, Designated Biologist(s), or Designated Surveyor(s), shall compile the observation and inspection records identified during <u>Compliance Monitoring</u>, described above, into a Quarterly Compliance Report (QCR) during the construction phase only and submit it to CDFW along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted via e-mail to CDFW's Regional Representative, Regional Office (RRR.R4@wildlife.ca.gov) and Headquarters CESA Program (CESA@wildlife.ca.gov) no later than the 15th day of the month following the reporting period. At the time of the ITP's approval, the Regional Representative is Jim Vang (Jim.Vang@wildlife.ca.gov), the Regional Office e-mail is RRR.R4@wildlife.ca.gov, and the Headquarters CESA Program e-mail 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.</p>	Condition of Approval #7.6	During Project Construction	Designated Representative or Designated Biologist(s)	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Annual Status Report (Construction Phase and O&M Phase).</u> Permittee shall provide CDFW with an Annual Status Report (ASR) during the construction phase and O&M phase no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the <u>Final Mitigation Report</u>, identified below. The Reporting Period for the ASR shall be the prior calendar year. Each ASR shall include, at a minimum: (1) a summary of all <u>QCRs</u> for the Reporting Period during the construction phase; (2) a record of the <u>Education Program</u> training sessions provided over the Reporting Period; (3) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known for the Reporting Period; (4) a copy of the table in this MMRP with notes showing the current implementation status of each mitigation measure; (5) a summary of findings from all pre-construction surveys conducted during the Reporting Period, including but not limited to, the number of times a Covered Species or their burrow was encountered, location, if avoidance was achieved, and if not, what measures were implemented; (6) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (7) all available information about Project-related incidental take of the Covered Species for the Reporting Period; (8) a written and mapped accounting of the number of acres subject to both temporary and permanent disturbance, both for the Reporting Period, and a total since ITP issuance; and (9) information about other Project impacts on the Covered Species during the Reporting Period. ASRs shall be submitted to CDFW following the directions provided in the <u>Condition of Approval Quarterly Compliance Report</u>.</p>	<p>Condition of Approval #7.7</p>	<p>Entire Project</p>	<p>Permittee</p>	
<p><u>CNDDDB Observations.</u> The Designated Biologist(s) or Designated Surveyor(s) shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within a minimum of 60 calendar days of the observation. The Designated Biologist(s) or Designated Surveyor(s) shall include copies of the submitted forms with the next QCR or ASR, whichever is submitted first relative to the observation during the construction phase and copies of the submitted forms shall be submitted with the ASR during the O&M phase.</p>	<p>Condition of Approval #7.8</p>	<p>Entire Project</p>	<p>Designated Biologist(s)</p>	
<p><u>Construction Phase Conditions of Approval Evaluation Report.</u> No later than 45 days after completion of all construction activities for the solar array development area and gen-tie line, Permittee shall provide CDFW with a Construction Phase Conditions of Approval Evaluation Report. The Designated Biologist(s) or Designated Surveyor(s) shall prepare the Construction Phase Conditions of Approval Evaluation Report which shall include, at a minimum: (1) a summary of all QCRs and all ASRs; (2) beginning and ending dates of Covered Activities for the construction phase; (3) a copy of the table in this MMRP with notes showing when each of the construction phase conditions were implemented and an assessment of the effectiveness of each of the Conditions of Approval associated with the construction of the Project in minimizing and mitigating Project impacts on Covered Species; (4) recommendations on how the conditions might be changed to more effectively minimize take and mitigate the impact of future projects on Covered Species; and (5) any other pertinent information. The Construction Phase Conditions of Approval Evaluation Report shall be submitted to CDFW following the directions provided in <u>Condition of Approval Quarterly Compliance Report</u>.</p>	<p>Condition of Approval #7.9</p>	<p>After Completion of Initial Construction Activities</p>	<p>Permittee</p>	
<p><u>Final Mitigation Report.</u> No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist or Designated Surveyor(s) shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all QCRs and all ASRs; (2) a copy of the table in this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of 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 the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.</p>	<p>Condition of Approval #7.10</p>	<p>After Completion of All Mitigation Measures</p>	<p>Permittee</p>	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>As-Built Development Plans.</u> No later than 45 calendar days after completion of all construction phase Covered Activities, Permittee shall submit as-built development plans. The as-built plan-sheets shall delineate and quantify the extent of permanent Project features, including roads, utilities and all other facilities and features associated with the Project. The as-built plans shall include an estimate of the permanent disturbance during construction by highlighting the estimated disturbance areas on the as-built plan-sheets. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. As-built plans shall be derived from survey data acquired after the Project construction phase has been completed and shall be verified by the Designated Biologist(s). The As-built plans shall be submitted in electronic format (e-mail or other available document repository/share site) to CDFW following the directions provided in the Condition of Approval <u>Quarterly Compliance Report</u>.</p>	Condition of Approval #7.11	After Completion of Initial Construction Activities	Permittee	
<p><u>Notification of Take or Injury.</u> Permittee shall immediately notify the Designated Biologist(s) or Designated Surveyor(s) 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(s), or Designated Surveyor(s), or Designated Representative shall provide initial notification to CDFW via email to the Regional Office at RRR_R4@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, 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. The written report shall be submitted via e-mail to the Regional Representative and Regional Office identified in the <u>Quarterly Compliance Report</u> Condition of Approval.</p>	Condition of Approval #7.12	Entire Project	Permittee	
<p><u>Designated Biologist(s) On Site.</u> The Designated Biologist(s) shall be on site during all activities that may result in the take of Covered Species and in accordance with the Condition of Approval <u>Compliance Monitoring</u>.</p>	Condition of Approval #8.1	Entire Project	Designated Biologist(s)	
<p><u>Work Hours.</u> Permittee shall conduct all Covered Activities during daylight hours (sunrise to sunset) except for the following activities as necessary: (1) planned and unplanned repairs and replacement, wiring, testing, and commissioning that must occur after dark to ensure PV arrays are not energized; (2) unanticipated emergencies (in accordance with Section 21060.3 of the Public Resources Code), including forced outages and non-routine repairs requiring immediate attention; (3) security patrols, and (4) refueling equipment and staging material for the following day's construction activities.</p> <p>Permittee shall ensure: (1) that any vehicle traffic necessary during nighttime hours associated with these activities are conducted with caution to minimize impacts to Covered Species; (2) the speed limit during allowable night work is reduced to 10 mph for non-emergency activities; and (3) that CDFW is notified in writing as soon as possible and no later than 24 hours after commencement of any emergency nighttime activities.</p>	Condition of Approval #8.2	Entire Project	Permittee	
<p><u>Delineation of Ingress and Egress Routes.</u> Permittee shall flag or otherwise clearly mark all access roads in the field from the paved road and vehicle operation shall be limited to these designated ingress and egress routes.</p>	Condition of Approval #8.3	Entire Project	Permittee	
<p><u>Vehicle Parking.</u> Permittee shall not allow vehicles to park on top of Covered Species burrows or dens, except within designated staging areas for which burrows have been excavated per the Conditions of Approval <u>BNLL Burrow Excavation</u> and <u>SJKF Den Excavation</u>. Vehicles left overnight shall be located at least 50 feet from all Covered Species dens or burrows.</p>	Condition of Approval #8.4	Entire Project	Permittee	
<p><u>Vehicle Equipment Inspection.</u> Workers shall inspect for Covered Species under vehicles and equipment every time before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist(s) or Designated Surveyor(s) and wait for the Covered Species to move unimpeded to a safe location.</p>	Condition of Approval #8.5	Entire Project	Permittee and Designated Biologist(s)	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Pipe and Materials Inspection.</u> 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 structure is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist(s) or Designated Surveyor(s) and wait for the Covered Species to move unimpeded to a safe location before moving and utilizing the structure. Alternatively, BNLL may be moved by the Designated Biologist(s) or Designated Surveyor(s) in accordance with the CDFW-approved <u>BNLL Mortality Reduction and Relocation Plan.</u></p>	Condition of Approval #8.6	Entire Project	Permittee and Designated Biologist(s)	
<p><u>Excavation Inspection.</u> The Designated Biologist(s) or Designated Monitor(s) shall inspect all trenches, open holes, sumps, and other excavations (collectively, Excavations) within the Project Area for Covered Species and other trapped animals every day. If the Excavations have slopes less steep than 1:1, are covered as described below, or have escape ramps as described below, these checks can be reduced to immediately before Excavations are backfilled, during workdays, and after rain events that could wash out escape ramps.</p> <ul style="list-style-type: none"> • <u>Cover:</u> Unless inspected daily, all Excavations with sidewalls steeper than a 1:1 (45 degree) slope shall be covered when workers or equipment are not actively working in the Excavation, which includes cessation of work overnight, or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope as described below. To prevent inadvertent entrapment of the Covered Species, the Designated Biologist(s) or Designated Monitor(s) shall oversee the covering of all such Excavations 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 shall be secured with soil staples or similar means to prevent gaps. The Designated Biologist(s) or Designated Monitor(s) shall also thoroughly inspect any Excavations that are covered long term at the beginning of each working day to ensure inadvertent entrapment has not occurred and shall make any necessary repairs to the cover. • <u>Escape Ramp:</u> As an alternative to covering, all Excavations may have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. All Excavations shall have an additional escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope for every additional 50 feet of Excavation length. For example, a 50-foot-long Excavation would have two escape ramps and a 100-foot-long Excavation would have three escape ramps. 	Condition of Approval #8.7	Entire Project	Permittee and Designated Biologist(s) or Designated Monitor(s)	
<p><u>On-Site Retention Basin Entrapment Prevention.</u> Permittee shall ensure that final design of the on-site retention basins have adequate elements to ensure that Covered Species can escape should one inadvertently enter or can be precluded from entry. Permittee shall submit a Basin Design Plan with elements necessary for Covered Species escape and/or entry prevention for review and approval by CDFW prior to implementation of Covered Activities related to basin construction and/or installation.</p>	Condition of Approval #8.8	Before Starting Covered Activities	Permittee and Designated Biologist(s)	
<p><u>Covered Species Observations.</u> All workers shall inform the Designated Biologist(s) or Designated Surveyor(s) if a Covered Species is seen within or near the Project Area during implementation of any Covered Activity. All work in the vicinity of the Covered Species, which could take or injure the animal, shall cease until the Covered Species moves from the Project Area of its own accord.</p>	Condition of Approval #8.9	Entire Project	Permittee and Designated Biologist(s)	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Covered Species Injury.</u> If a Covered Species is injured as a result of Project-related activities, the Designated Biologist(s) or Designated Surveyor(s) 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 phone and e-mail followed by a written incident report as described in the Condition of Approval <u>Notification of Take of Injury</u> and shall include the name of the facility where the animal was taken. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was treated. If a Covered Species is found deceased, the Designated Biologist(s) or Designated Surveyor(s) shall immediately collect, bag, and freeze the carcass and consult with CDFW to determine if submittal of the carcass to a laboratory is warranted.</p>	Condition of Approval #8.10	Entire Project	Permittee and Designated Biologist(s)	
<p><u>BNLL Pre-Construction Surveys and Reporting.</u> The Designated Biologist(s) or Designated Surveyor(s) shall survey the Project Area (or distinct work area(s) within the Project Area) a minimum of 50 feet beyond the limits of the Project Area (unless otherwise approved in writing by CDFW) to identify, flag, and map all potential burrows that could be occupied by BNLL, whether they appear active or inactive, within 30 calendar days prior to beginning Covered Activities in the Project Area. Permittee shall provide the results in a BNLL Burrow Map written report to CDFW's Regional Representative at least five calendar days prior to beginning Covered Activities. The report shall include, but not be limited to, methodology, date and time of survey(s), the number of burrows that could be occupied by BNLL, a discussion and map of the locations of each burrow and the dates when potential BNLL relocation or translocation will occur as described in Condition of Approval <u>BNLL Relocation</u> and depict and discuss burrows which will be avoided per Condition of Approval <u>BNLL Burrow Avoidance</u>.</p>	Condition of Approval #8.11	Before Starting Covered Activities	Permittee	
<p><u>BNLL Mortality Reduction and Relocation Plan.</u> Permittee shall submit a BNLL Mortality Reduction and Relocation Plan to CDFW at least 14 days prior to beginning Covered Activities. BNLL surveys, capture, burrow excavation, and other relocation activities shall not proceed until this plan has been approved in writing by CDFW's Regional Representative. The BNLL Mortality Reduction and Relocation Plan shall include, but not be limited to: timing; detailed description of survey and capture methodology; detailed burrow excavation methods; release location(s) protected by conservation easement; detailed release methods (i.e., hard or soft release or another method); potential artificial burrow design and installation methods; and identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured BNLL or care for at-risk torpid BNLL or BNLL eggs. Only the Designated Biologist(s) or Designated Surveyor(s) is authorized to capture, handle, relocate, translocate, and transport BNLL. Once the BNLL Mortality Reduction and Relocation Plan is approved in writing by CDFW, it shall be used for the duration of the ITP unless updated by CDFW to reflect best available science and/or to update mitigation and conservation strategies in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes to the BNLL Mortality Reduction and Relocation Plan shall be submitted, in writing, to CDFW and approved in writing prior to implementation of any proposed modifications.</p>	Condition of Approval #8.12	Before Starting Covered Activities	Permittee	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>BNLL Burrow Avoidance</u>. The Permittee shall notify United States Fish and Wildlife Service (USFWS) and CDFW's Regional Representative on the same workday via telephone or e-mail if any BNLL are discovered within or immediately adjacent to the Project Area. The Designated Biologist(s) shall establish a no-disturbance buffer of 50 feet or greater around potential burrows that could be occupied by BNLL, suspected burrows or known burrows to be occupied by BNLL within the Project Area. If the 50-foot no-disturbance buffer cannot be implemented, potential live capture, relocation, and burrow excavation shall occur in accordance with the Conditions of Approval <u>BNLL Mortality Reduction and Relocation Plan</u>, <u>BNLL Individual Avoidance</u>, <u>BNLL Relocation</u>, <u>BNLL Relocation Weather Constraints</u>, and <u>BNLL Burrow Excavation</u>. A buffer reduction request may be submitted to CDFW to allow for retaining burrows that could otherwise be reasonably avoided and un-damaged by ground-disturbing activities and potentially available to Covered Species post construction. Such requests should consider exclusion methods (e.g., exclusion fence strategies and/monitoring). Buffer reduction requests shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any buffer reduction activities.</p>	Condition of Approval #8.13	Entire Project	Permittee	
<p><u>BNLL Individual Avoidance</u>. If an individual (adult or juvenile) BNLL is detected above ground within the Project Area, any Covered Activities occurring within 500 feet of the observed BNLL must temporarily cease. The BNLL shall first be allowed to leave the Project Area on its own volition monitored by the Designated Biologist(s) or Designated Surveyor(s). If the BNLL is unable to leave the Project Area on its own volition due to Project related obstructions (e.g., fencing, vehicles, Project materials, etc.), the Designated Biologist(s) or Designated Surveyor(s) may establish an area for a passive exit leading/oriented away from the Project Area into suitable habitat only (i.e. not into the path of a paved road, etc.) or pursue the BNLL into an exit path leading away from the Project Area into suitable habitat only. The Designated Biologist(s) or Designated Surveyor(s) in either scenario shall monitor the exit of the BNLL. If a passive exit area or exit path needs to be established by the Designated Biologist(s) or Designated Surveyor(s) with passive or active exclusion (e.g., sequencing of temporary fence, boards, or flashing) the Designated Biologist(s) shall have such equipment ready to implement a non-handling exit area or exit path. If based on the Designated Biologist's assessment that the BNLL will not successfully exit the Project Area with passive or active exclusion the BNLL may be captured and relocated by the Designated Biologist per Condition of Approval <u>BNLL Relocation</u>.</p>	Condition of Approval #8.14	Entire Project	Permittee	
<p><u>BNLL Relocation</u>. Prior to commencing or re-commencing Covered Activities within the Project Area, and following the methods outlined in the <u>BNLL Mortality Reduction and Relocation Plan</u>, any above ground BNLL detected by the Designated Biologist(s) or Designated Surveyor(s) within the Project Area that cannot be avoided per Conditions of Approval <u>BNLL Burrow Avoidance</u> and <u>BNLL Individual Avoidance</u> shall be live captured by the Designated Biologist(s) immediately after detection, in the event additional animals are detected after initial relocation activities. The Designated Biologist(s) shall relocate all captured BNLL immediately to the CDFW-approved release site identified in the <u>BNLL Mortality Reduction and Relocation Plan</u>. The Designated Biologist(s) shall submit daily capture and release forms to CDFW for review and concurrence to continue (or not) with live capture. Daily capture forms shall include, but not be limited to: on-site shaded air temperatures measured 1-2 centimeters (cm) from above the ground and time(s) of captures; capture details (e.g., attempts made, capture response, total duration of hold times); relocation/translocation details (e.g., behavioral response) and supporting photos and/or videos; weather conditions (e.g., wind and cloud cover) during capture and post release, etc. Permittee shall propose a final capture activity date for CDFW review and written approval. Following the CDFW-approved final day of capture activity, burrow excavation according to Condition of Approval <u>BNLL Burrow Excavation</u> may begin.</p>	Condition of Approval #8.15	Before Starting Covered Activities and Entire Project	Permittee	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>BNLL Relocation Weather Constraints</u>. During the threat of inclement weather, such as the National Weather Service prediction of a 30 percent or greater chance of rain, the Designated Biologist(s) shall halt all capture of BNLL. Additionally, the Designated Biologist(s) shall halt all capture of BNLL if the air temperature drops below 77 or exceeds 95 degrees Fahrenheit during the capture period. The Designated Biologist(s) shall cease capture activity if captured animals are found to be lethargic or are otherwise showing signs of distress.</p>	Condition of Approval #8.16	Entire Project	Permittee	
<p><u>BNLL Burrow Excavation</u>. Immediately following live capture activities conducted in accordance with Conditions of Approval <u>BNLL Mortality Reduction and Relocation Plan</u> and <u>BNLL Relocation</u> and prior to beginning Covered Activities within the Project Area, the Designated Biologist(s), or individuals under the direct supervision of the Designated Biologist(s), shall fully excavate by hand all burrows potentially occupied by BNLL within each fenced Project Area to be disturbed by Covered Activities. The Designated Biologist(s) shall immediately relocate any active BNLL encountered during burrow excavation to the CDFW-approved release site(s) identified in the <u>BNLL Mortality Reduction and Relocation Plan</u>. Any BNLL eggs or torpid BNLL discovered during burrow excavation shall be transported to an identified and approved care facility listed in the <u>BNLL Mortality Reduction and Relocation Plan</u>.</p>	Condition of Approval #8.17	Before Starting Covered Activities	Permittee	
<p><u>SJKF Pre-Construction Surveys and Reporting</u>. The Designated Biologist(s) or Designated Surveyor(s) shall conduct surveys to identify potential, known, and/or natal SJKF dens to identify, flag, and map all potential dens within 30 calendar days prior to beginning Covered Activities in each work area or phase. Surveys shall include the Project Area and 500 feet (where feasible) beyond the limits of the Project Area (or distinct work area(s) within the Project Area), unless otherwise approved in writing by CDFW. If the Designated Biologist identifies any potential, known, and/or natal SJKF dens, the den(s) shall be monitored following the Conditions of Approval <u>SJKF Den Blockage</u> and <u>SJKF Den Excavation</u> unless avoided per Condition of Approval <u>SJKF Den Avoidance</u>. Permittee shall provide the pre-construction survey results in a written report to CDFW's Regional Representative at least five calendar days prior to the beginning of Covered Activities. The report shall include, but not be limited to, methodology, date, and time of the survey, and the number, map of the locations, and discussion of each potential, known, and/or natal SJKF den identified.</p>	Condition of Approval #8.18	Before Starting Covered Activities	Permittee	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>SJKF Den Avoidance</u>. The Permittee shall notify USFWS and CDFW's Regional Representative immediately via telephone or e-mail if any SJKF-occupied atypical dens, known dens, or potential or known natal dens are discovered within or immediately adjacent to the Project Area. The Permittee shall establish no-disturbance buffer zones according to the following guidelines:</p> <ul style="list-style-type: none"> 1.1.1. If a potential SJKF den (any subterranean hole, three inches or larger, for which no evidence is present to conclude that the den is being used or has been used by a SJKF) is discovered, or a SJKF is found in an "atypical" den (e.g., a pipe or culvert), a minimum 50-foot no-disturbance buffer shall be established around the den. 1.1.2. If a known SJKF den (a den that shows evidence of current use or is known to have been used in the past) is discovered, Permittee shall establish a minimum no-disturbance buffer of at least 100 feet around the den. 1.1.3. If a potential natal SJKF den (a den with two or more openings) is discovered, a no-disturbance buffer of at least 200 feet shall be established around the den. 1.1.4. If a SJKF known natal den (a den that shows evidence of pups, or a den which is known to have been used for pupping in the past) is discovered, a no-disturbance buffer of at least 250 feet shall be established around the den. <p>Establishment of larger no-disturbance buffers are warranted if SJKF are visibly stressed by the Covered Activities or workers in the vicinity and increased no-disturbance buffers will be determined by the Designated Biologist(s) or Designated Surveyor(s) based on their behavioral observations of the affected SJKF(s). If SJKF dens cannot be avoided as described above, then the Permittee shall follow Conditions of Approval <u>SJKF Den Blockage</u>, <u>SJKF Den Excavation</u>, and <u>SJKF Den Replacement Plan</u> as appropriate.</p>	<p>Condition of Approval #8.19</p>	<p>Entire Project</p>	<p>Permittee</p>	
<p><u>SJKF Den Blockage</u>. The Permittee shall block rather than destroy any den located within the buffer distances prescribed by Condition of Approval <u>SJKF Den Avoidance</u>, but outside the discrete ground-disturbing Project Area(s). Dens (including dens in natural substrate and in/under man-made structures) may be blocked only immediately after the Designated Biologist(s) or Designated Surveyor(s) has conducted four consecutive days of monitoring with tracking medium or infrared camera and determined that SJKF is not currently present. Natal dens shall not be blocked until the pups and adults have vacated the den and then only after written concurrence from the USFWS and CDFW. Den blockage shall be done in a manner that prevents SJKF from digging back into the den. All blocked dens shall be monitored at least once a week to ensure that the exclusion material is still intact. If SJKF is detected during monitoring activities or after the block is installed or if SJKF regains access to the den, the Permittee shall contact CDFW immediately and obtain written guidance regarding how to proceed. All blocked dens shall be unblocked within 48 hours of completion of Covered Activities within the prescribed buffer distance.</p>	<p>Condition of Approval #8.20</p>	<p>Before Starting Covered Activities</p>	<p>Permittee</p>	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>SJKF Den Excavation</u>. Dens (including dens in natural substrate and in/beneath man-made structures) may be destroyed immediately after the Designated Biologist(s) or Designated Surveyor(s) has conducted four consecutive days of monitoring with tracking medium or infrared camera and determined that SJKF are not currently present. Natal dens shall not be excavated until the pups and adults have vacated the den and then only after written concurrence from USFWS and CDFW. If the excavation process reveals evidence of current use by SJKF then den destruction shall cease immediately, and tracking or camera monitoring as described above shall be conducted/resumed. Destruction of the den shall be accomplished by careful excavation, which may be assisted by mechanical means, until it is certain no individuals of SJKF are inside. Dens to be destroyed shall be fully excavated by the Designated Biologist(s), Designated Surveyor(s) or by the Designated Monitor(s), both of the latter only under direct supervision of the Designated Biologist(s) for atypical, known, natal, and potential natal dens. A potential den may be independently excavated by a Designated Surveyor(s), or by a Designated Monitor(s) under the direct supervision of a Designated Surveyor(s), only if a Designated Biologist has first confirmed that the subterranean hole, three inches or larger, has no evidence (SJKF scat, tracks, prey remains, "keyhole shape" burrow entrance, etc.) present to conclude that the den is being used or has been used by a SJKF. Following excavation, dens shall be filled with dirt and compacted to ensure that SJKF cannot reenter or use the den during the construction phase. If an individual SJKF does not vacate a den within a reasonable timeframe, USFWS and CDFW shall be consulted, and Permittee shall obtain written guidance from both agencies prior to proceeding with den destruction.</p>	<p>Condition of Approval #8.21</p>	<p>Before Starting Covered Activities and Entire Project</p>	<p>Permittee</p>	
<p><u>SJKF Den Replacement Plan</u>. Permittee shall submit a SJKF Den Replacement Plan to CDFW at least 14 calendar days before starting Covered Activities. Permittee shall replace each known and active SJKF dens that cannot be avoided within the Project Area with an artificial den to compensate for the loss of important shelter used by SJKF for protection, reproduction, and escape from predators. Den excavation within the Project Area may not proceed until the SJKF Den Replacement Plan is approved, in writing, by CDFW's Regional Representative. The SJKF Den Replacement Plan shall include, but not be limited to, a discussion and map of potential artificial den replacement locations; detailed description of the den excavation methods; and description of the replacement den dimensions (e.g., depth and width of den, width of den entrance, orientation of den entrance, number and placement of entrances to natal dens). Once the SJKF Den Replacement Plan is approved in writing by CDFW, it shall be used for the duration of the ITP unless updated by CDFW to reflect best available science in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes to the SJKF Den Replacement Plan shall be submitted, in writing, to CDFW and approved by CDFW in writing prior to implementation of any proposed modifications.</p>	<p>Condition of Approval #8.22</p>	<p>Before Starting Covered Activities</p>	<p>Permittee</p>	
<p><u>SWHA Pre-Construction Surveys and Reporting</u>. The Designated Biologist shall conduct pre-construction surveys during the nesting season (February 15 through September 15) at and within 0.5 miles of the Project Area. The Designated Biologist or Designated Representative shall provide the survey results to CDFW in a written report at least five days prior to beginning Covered Activities.</p>	<p>Condition of Approval #8.23</p>	<p>Before Starting Covered Activities</p>	<p>Permittee</p>	
<p><u>SWHA Nest Abandonment Contingency Plan</u>. The Designated Biologist shall prepare a SWHA Nest Abandonment Contingency Plan and submit it to CDFW for written approval at least 14 days prior to the start of Covered Activities. The plan shall include, but not be limited to, identification of capture methods, handling methods, methods to return SWHA back into the wild, and the identification of a CDFW-approved wildlife rehabilitation center or veterinary facility. The Permittee shall fund the recovery and hacking (controlled release) of the SWHA nestlings. Once the SWHA Nest Abandonment Contingency Plan is approved in writing by CDFW, it shall be used for the duration of the ITP unless updated by CDFW to reflect best available science in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes to the SWHA Nest Abandonment Contingency Plan shall be submitted, in writing, to CDFW and approved in writing prior to implementation of any proposed modifications.</p>	<p>Condition of Approval #8.24</p>	<p>Before Starting Covered Activities</p>	<p>Permittee</p>	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>SWHA Nest(s)</u>. If a nesting SWHA is located at or within 0.25-mile of the distinct work area(s) within the Project Area, the Designated Biologist(s) shall be present daily for the entire duration of any Covered Activities occurring during the nesting season (February 15 through September 15) and within 0.25-mile of the active nest, to monitor the behavior of the SWHA. The Designated Biologist(s) shall have the authority to order the cessation of all Covered Activities if the bird(s) exhibits distress and/or abnormal nesting behavior (swooping/stooping, excessive vocalization [distress calls], agitation, failure to remain on nest, failure to deliver prey items for an extended time period, failure to maintain nest, etc.) which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Permittee shall not resume Covered Activities until CDFW has been consulted by the Designated Biologist(s), and both the Designated Biologist(s) and CDFW confirm that the bird's behavior has normalized.</p>	Condition of Approval #8.25	Entire Project	Permittee	
<p><u>SWHA Nest Buffers</u>. The Permittee and Designated Biologist(s) shall ensure that no Covered Activities occur within 100 feet of a SWHA nest during the nesting season (February 15 through September 15). The 100-foot no-disturbance buffer shall not be reduced or otherwise modified without prior written CDFW approval. Worker foot traffic, water and restroom facilities, employee break areas (permanent or temporary), and worker vehicle parking is prohibited within 1,000 feet of any SWHA nest without prior written CDFW approval.</p>	Condition of Approval #8.26	Entire Project	Designated Biologist(s)	
<p><u>SWHA Injury</u>. If a SWHA is injured as a result of Project-related activities, the Designated Biologist(s) shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility and shall bear any costs associated with the care or treatment of such injured SWHA. The Permittee shall notify CDFW of the injury to the SWHA immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval <u>Notification of Take or Injury</u>. Notification shall include the name of the facility where the animal was taken.</p>	Condition of Approval #8.27	Entire Project	Permittee	
<p><u>Western Burrowing Owl Mortality Reduction Plan</u>. Permittee shall submit a Western burrowing owl (BUOW) Mortality Reduction Plan prepared by the Designated Biologist to CDFW prior to commencing BUOW burrow exclusion, burrow excavation, artificial burrow construction, and other relocation activities (collectively termed BUOW Exclusion Activities). BUOW Exclusion Activities shall not proceed until this plan has been approved in writing by CDFW. The BUOW Mortality Reduction Plan shall include, but not be limited to: detailed description of survey methodology; detailed burrow exclusion and excavation methods; proposed Covered Activities that may be performed within BUOW avoidance buffers; identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured BUOW or care for at-risk BUOW, BUOW eggs, and/or BUOW chicks; and procedure for collection and storage of BUOW carcasses. Only CDFW-approved Designated Biologist(s), or personnel following directions from and under the supervision of the Designated Biologist, are authorized to handle and transport injured BUOW for treatment or impacted BUOW eggs for salvage. All other BUOW handling or capture is prohibited.</p> <p>Once the BUOW Mortality Reduction Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated by CDFW to reflect best available science in which case CDFW will contact the Permittees to discuss needed updates. Any proposed changes to the BUOW Mortality Reduction Plan shall be submitted, in writing, to CDFW and approved in writing prior to the implementation of any proposed modifications.</p>	Condition of Approval #8.28	Entire Project	Permittee	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>BUOW Artificial Burrow Replacement Plan.</u> Permittee shall replace each known BUOW burrow (as defined in the <u>BUOW Burrow Avoidance</u> Condition of Approval) that cannot be avoided within the Project Area with an artificial burrow to compensate for the loss of important shelter used by BUOW for protection, reproduction, and escape from predators. Permittee shall submit a BUOW Artificial Burrow Replacement Plan prepared by an approved Designated Biologist to CDFW within 30 days of ITP issuance. Implementation of the BUOW Artificial Burrow Replacement Plan shall not proceed until this plan has been approved in writing by CDFW. The BUOW Artificial Burrow Replacement Plan shall include, but not be limited to: a discussion and map of potential artificial burrow replacement locations; description of the replacement burrow design and dimensions (e.g., depth and width of burrow, width of burrow entrance, orientation of burrow entrance, number and placement of entrances, etc.); artificial burrow installation methods; long-term artificial burrow maintenance methods; and timing of BUOW burrow installation/construction.</p> <p>Once the BUOW Artificial Burrow Replacement Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated by CDFW to reflect best available science in which case CDFW will contact the Permittees to discuss needed updates. Any proposed changes to the BUOW Artificial Burrow Replacement Plan shall be submitted, in writing, to CDFW and approved in writing by CDFW prior to the implementation of any proposed modifications.</p>	Condition of Approval #8.29	Entire Project	Permittee	
<p><u>BUOW Pre-Construction Surveys and Reporting.</u> The Designated Biologist(s) shall conduct surveys to identify potential, known, and/or nesting BUOW burrows (as defined in the <u>BUOW Burrow Avoidance</u> Condition of Approval) prior to beginning BUOW Exclusion Activities in each distinct Work Area(s) (a work site/phase within the Project Area. Surveys shall include the Work Area and 500 feet (where feasible) beyond the limits of the Project Area (or distinct Work Area(s)), unless otherwise approved in advance in writing by CDFW. If the Designated Biologist(s) identifies any potential, known, or nesting BUOW burrows, the burrow(s) shall be monitored following the <u>BUOW Burrow Blockage</u> and <u>BUOW Burrow Excavation</u> Conditions of Approval, unless avoided per the <u>BUOW Burrow Avoidance</u> Condition of Approval. Permittee shall provide the preconstruction survey results with a Burrow Map (see <u>Burrow Map</u> Condition of Approval) in a written report to CDFW's Regional Representative prior to starting BUOW Exclusion Activities in the Project Area or in each distinct Work Area(s). The report shall include, but not be limited to, methodology, survey date, and apparent status of each burrow (potential, known, or nesting).</p>	Condition of Approval #8.30	Entire Project	Permittee	
<p><u>Burrow Map.</u> The Designated Biologist shall provide a KMZ map to CDFW of all BUOW burrows found during the surveys performed per the <u>BUOW Pre-Construction Surveys and Reporting</u> Condition of Approval. The map shall show details and locations of all BUOW sightings and potential, known, and nesting BUOW burrows as defined in the <u>BUOW Burrow Avoidance</u> Condition of Approval. The map shall include an outline of the Project Area and any distinct Work Area(s) surveyed within the Project Area, title bar, north arrow, scale bar, and legend.</p>	Condition of Approval #8.31	Entire Project	Permittee	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p>BUOW Burrow Avoidance. The Permittee shall establish no-disturbance buffer zones around potential, known and nesting BUOW burrows according to the following guidelines:</p> <ul style="list-style-type: none"> • If a <u>potential BUOW burrow</u> (any subterranean hole three inches or larger for which no evidence is present to conclude that the burrow is being used or any past use by a BUOW) is discovered, the Permittee shall establish a minimum a 50-foot no-disturbance buffer around the burrow. • If a <u>known BUOW burrow</u> (a burrow that is known to have been used or shows evidence of current or past use) or an "atypical" burrow (e.g., a pipe, culvert, buckled concrete, etc.) showing signs of occupancy (e.g. BUOW presence, whitewash, pellets, prey remains, etc.) is discovered, the Permittee shall establish a minimum no-disturbance buffer of at least 100 feet around the burrow. A no-disturbance buffer of at least 1,600 feet shall be established around known BUOW burrows currently occupied by BUOW during the nesting season (typically February 1 to August 31 in this area). • If a <u>nesting BUOW burrow</u> used for nesting (e.g. known BUOW burrow indications of the presence of eggs, chicks, dependent young, and/or brooding or egg incubation) is discovered within or immediately adjacent to the Project Area, the Permittee shall notify CDFW's Regional Representative immediately via e-mail. A no-disturbance buffer of at least 1,600 feet shall be established around the nest burrow. A no-disturbance buffer of at least 1,600 feet shall be established around known BUOW burrows currently occupied by BUOW during the nesting season (February 1 to August 31). <p>If BUOW burrows cannot be avoided as described above, then the Permittees shall follow the <u>BUOW Burrow Blockage</u>, <u>BUOW Burrow Excavation</u>, and <u>BUOW Mortality Reduction Plan</u> Conditions of Approval as appropriate. If BUOW are visibly stressed by the Covered Activities or workers in the vicinity after these no-disturbance buffers are established, all work in the vicinity shall immediately cease and increased no-disturbance buffers will be determined by the Designated Biologist(s) based on their behavioral observations of the affected BUOW.</p> <p>The buffers prescribed above shall not be reduced or otherwise modified without prior written CDFW approval. If the Designated Biologist determines that specific Covered Activities are not likely to affect the BUOW using known or nesting BUOW burrows due to the nature of the specific Covered Activities and/or due to objects or topography that might reduce potential noise disturbance and obstruct view of the Covered Activities from the nest, then the Designated Biologist may email a written request to CDFW to reduce the buffer distance with documented observational data (Buffer Reduction Request). CDFW will review each Buffer Reduction Request on a case-by-case basis and provide a determination in response to each Buffer Reduction Request in writing. CDFW may request additional and/or ongoing biological monitoring prior to approving a Buffer Reduction Request.</p>	<p>Condition of Approval #8.32</p>	<p>Entire Project</p>	<p>Permittee</p>	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>BUOW Burrow Blockage.</u> Where CDFW has approved a buffer reduction, the Permittee shall block rather than destroy any BUOW Burrow located within the buffer distances prescribed by the <u>BUOW Burrow Avoidance</u> Condition of Approval, but outside the discrete Work Area(s) within the Project Area where ground- and vegetation-disturbing Covered Activities will be performed. Burrows (including burrows in natural substrate and in/under man-made structures) may be blocked only immediately after the Designated Biologist(s) has conducted four consecutive 24-hour periods of monitoring with infrared camera and determined that BUOW is not currently present. Nesting BUOW nest burrows shall not be blocked until biological and camera monitoring confirm that the chicks and adults have vacated the burrow and/or the chicks have fledged, and are no longer dependent on the nest, and CDFW provides written concurrence. Burrow blockage shall be done in a manner that prevents burrowing animals from digging back into the burrow. All blocked burrows shall be monitored by the Designated Biologist(s) or Designated Monitor(s) at least once a week to ensure that the exclusion material is still intact. If BUOW regains access to the burrow, the Permittee shall contact CDFW immediately and obtain written guidance regarding how to proceed. All blocked burrows shall be unblocked within 48 hours of completion of Construction Covered Activities within the prescribed buffer distance.</p>	<p>Condition of Approval #8.33</p>	<p>Entire Project</p>	<p>Permittee</p>	
<p><u>BUOW Burrow Excavation.</u> The Designated Biologist, or Designated Monitor under direct supervision of the Designated Biologist, shall excavate known or potential burrows that exhibit signs of current or past BUOW use or characteristics suggestive of a BUOW burrow (including burrows in natural substrate and in/under man-made structures) that cannot be avoided per the <u>BUOW Burrow Avoidance</u> Condition of Approval and that are within the Project Area. Burrows to be destroyed shall be fully excavated, filled with dirt, and compacted to ensure that BUOW cannot reenter or use the burrow during the period that Covered Activities occur in the Project Area. If an individual BUOW does not vacate a burrow within a reasonable timeframe, Permittee shall consult with CDFW for written guidance before proceeding with burrow excavation. An established BUOW burrow no-disturbance buffer may be removed once the burrow is collapsed and BUOW are no longer using the burrow.</p> <ul style="list-style-type: none"> • Excavation of known BUOW burrows shall only occur after the Designated Biologist has determined that BUOW is not currently present after 4 consecutive 24-hour periods of monitoring with infrared cameras. If the excavation process reveals evidence of current use by BUOW, then burrow excavation shall cease immediately, and camera monitoring as described above shall be conducted/resumed. BUOW burrows shall be carefully excavated with hand tools, or by mechanical means if a specific methodology is approved in writing by CDFW, until it is clear no individuals of BUOW are inside. • Potential BUOW burrows without any signs of BUOW use or characteristics suggesting it is a BUOW burrow may be excavated under the direct supervision of the Designated Biologist without camera monitoring. • Nesting BUOW burrows used for nesting shall not be excavated until biological and camera monitoring confirm that the chicks have fledged and are no longer dependent on the nest and then only after written concurrence from CDFW. 	<p>Condition of Approval #8.34</p>	<p>Entire Project</p>	<p>Permittee</p>	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Restrictions for Nightwork.</u> Permittee shall ensure that any nightwork done in the vicinity of an occupied BUOW burrow follows the <u>BUOW Burrow Avoidance</u> Condition of Approval. Permittee shall ensure that no permanent or temporary, fixed, exterior lighting, including motion-triggered security lighting, will cast light on BUOW habitat beyond the Project Area. The Designated Biologist(s) shall be on-site during all non-emergency vegetation or ground disturbing Covered Activities performed at night. Permittees shall ensure that all vehicle traffic necessary during nighttime Covered Activities be conducted at speeds of less than 10 mph to minimize impacts to Covered Species.</p>	Condition of Approval #8.35	Entire Project	Permittee	
<p><u>BUOW Injury.</u> If a BUOW is injured or found dead within the vicinity of the Project Area, the Permittee shall notify CDFW of the injury or mortality to the BUOW immediately by e-mail as described in the <u>Notification of Take or Injury</u> Condition of Approval. The Designated Biologist shall follow the BUOW Mortality Reduction Plan to either immediately transport injured individuals to a CDFW-approved wildlife rehabilitation center or veterinary facility or follow approved collection and storage procedures for deceased animals. Permittees shall bear any cost associated with care and recovery of any injured BUOW adults, nestling(s) or egg(s) and hacking (controlled release of captive reared young).</p>	Condition of Approval #8.36	Entire Project	Permittee	
<p><u>O&M Covered Activities.</u> Permittee shall implement Conditions of Approval <u>General Provisions</u> and <u>Monitoring, Notification and Reporting Provisions</u> of the ITP for all O&M Covered Activities as applicable.</p>	Condition of Approval #8.37	Entire Project	Permittee	
<p><u>O&M Covered Activities Designated Biologist(s) On-site.</u> The CDFW-approved Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) as applicable, shall be on-site during all ground- and vegetation-disturbing activities.</p>	Condition of Approval #8.38	Entire Project	Designated Biologist(s)	
<p><u>O&M Covered Activities Work Hours.</u> Permittee shall confine any O&M Covered Activities to daylight hours (sunrise to sunset) with the exception of any O&M or replacement work that must occur after dark to ensure PV arrays are not energized, emergency response activities (e.g. catastrophic failures, security issues, etc.), or species-specific take minimization measures as applicable. Permittee shall ensure that all vehicle traffic necessary during nighttime Covered Activities be conducted at speeds of less than 10 mph to minimize impacts to Covered Species.</p>	Condition of Approval # 8.39	Entire Project	Designated Biologist(s)	
<p><u>O&M Covered Activities Vehicle Parking.</u> During all O&M Covered Activities, Permittee shall not allow vehicles to park on top of potential Covered Species burrows or dens, or within 100 feet of an active SWHA nest. Vehicles left overnight shall not be located within 50 feet of Covered Species burrows or dens (known or potential), or within 100 feet of an active SWHA nest.</p>	Condition of Approval #8.40	Entire Project	Designated Biologist(s)	
<p><u>O&M Phase Vehicle and Equipment Inspection.</u> During the O&M phase, workers shall inspect for Covered Species under vehicles and equipment every time the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Designated Biologist(s) or Designated Surveyor(s) shall be contacted to determine if the animal can be safely moved under the Conditions of Approval of the ITP.</p>	Condition of Approval #8.41	Entire Project	Designated Biologist(s)	
<p><u>O&M Covered Activities Pipes and Materials Inspection.</u> Permittee shall ensure that all pipes or similar materials stockpiled or replaced in the Project Area be capped or otherwise enclosed at the ends to prevent entry by Covered Species. Permittee shall not leave any permanent pipes or similar materials or structures open where Covered Species may enter them and become trapped. Workers shall thoroughly inspect all such materials for Covered Species before they are moved, buried, or capped. If a Covered Species is discovered inside such material, that section of material shall not be moved until the Covered Species has escaped of its own accord. If a Covered Species inside such materials does not vacate on its own volition within a reasonable timeframe, Permittee shall contact CDFW to obtain written concurrence via email prior to proceeding with eviction of the Covered Species.</p>	Condition of Approval #8.42	Entire Project	Designated Biologist(s)	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>O&M of Retention Basin Entrapment Prevention.</u> Permittee shall ensure that Retention Basins' wildlife escape and prevention materials are maintained in effective condition. Maintenance inspections of these features shall be conducted as appropriate. Should any failures be discovered, Permittee shall make necessary repairs immediately to ensure that Covered Species can escape or are prevented from entry. If permanent repairs cannot be immediately completed (within 24 hours) then temporary repairs shall be put in place until the permanent repair can be reasonably completed. Inspection of temporary repairs shall be completed daily to ensure effectiveness of wildlife escape and/or entry exclusion until the permanent repair can be completed.</p>	<p>Condition of Approval #8.43</p>	<p>Entire Project</p>	<p>Designated Biologist(s)</p>	
<p><u>O&M Covered Activities Covered Species Observations.</u> During all O&M Covered Activities within the Project Area, all workers shall inform the Designated Biologist(s) or Designated Surveyor(s) if a Covered Species is observed within or near the Project Area. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease immediately until the Covered Species moves from the Project Area of its own accord.</p>	<p>Condition of Approval #8.44</p>	<p>Entire Project</p>	<p>Permittee and Designated Biologist(s)</p>	
<p><u>O&M Covered Activities BNLL Burrow Avoidance.</u> Unless otherwise approved in writing by CDFW, the Designated Biologist(s) or Designated Surveyor(s) shall establish a no-disturbance buffer of 50 feet or greater around potential burrows that could be occupied by BNLL, suspected, or known to be occupied by BNLL for all ground- or vegetation-disturbing O&M Covered Activities. If the 50-foot no-disturbance buffer cannot be established; live capture, relocation or translocation, and burrow excavation shall occur in accordance with Conditions of Approval <u>BNLL Mortality Reduction and Relocation Plan</u>, <u>BNLL Individual Avoidance</u>, <u>BNLL Relocation</u>, <u>BNLL Relocation Weather Constraints</u>, and <u>BNLL Burrow Excavation</u>.</p>	<p>Condition of Approval #8.45</p>	<p>Before Starting Covered Activities</p>	<p>Permittee</p>	
<p><u>O&M Covered Activities SJKF Den Avoidance.</u> Unless otherwise approved in writing by CDFW, if a potential or atypical SJKF den (any subterranean hole, three inches or larger) is located, SJKF den avoidance shall occur in accordance with Condition of Approval <u>SJKF Den Avoidance</u> prior to conducting ground- or vegetation-disturbing O&M Covered Activities. If the no-disturbance buffers cannot be established, then den blockage or excavation and replacement (if applicable) shall occur in accordance with Conditions of Approval <u>SJKF Den Blockage</u>, <u>SJKF Den Excavation</u>, and <u>SJKF Den Replacement Plan</u> as appropriate.</p>	<p>Condition of Approval #8.46</p>	<p>Before Starting Covered Activities</p>	<p>Permittee and Designated Biologist(s)</p>	
<p><u>O&M Covered Activities SWHA Nest Avoidance.</u> Unless otherwise approved by CDFW, the Designated Biologist(s) shall establish a 100-foot no disturbance buffer around all active SWHA nest(s) during the nesting season (February 15 through September 15). The 100-foot no-disturbance buffer shall not be reduced or otherwise modified without prior written CDFW approval. Worker foot traffic, water and restroom facilities, employee break areas (permanent or temporary), and worker vehicle parking is prohibited within 1,000 feet of any SWHA nest without prior written CDFW approval. If an active nest is abandoned or a SWHA is injured, the Designated Biologist(s) shall follow the CDFW approved <u>SWHA Nest Abandonment Contingency Plan</u> and Condition of Approval <u>SWHA Injury</u> as applicable.</p>	<p>Condition of Approval #8.47</p>	<p>Before Starting Covered Activities and Entire Project</p>	<p>Designated Biologist(s)</p>	
<p><u>O&M Covered Activities BUOW Burrow Avoidance.</u> Unless otherwise approved in writing by CDFW, if a potential, known, or nesting BUOW burrow is identified, BUOW burrow avoidance shall occur in accordance with Condition of Approval <u>BUOW Burrow Avoidance</u> prior to conducting ground- or vegetation-disturbing O&M Covered Activities. If the no-disturbance buffers cannot be established, then den blockage or excavation and replacement (if applicable) shall occur in accordance with Conditions of Approval <u>BUOW Burrow Blockage</u> and <u>BUOW Excavation</u>, <u>BUOW Burrow Mortality Reduction Plan</u>, and <u>BUOW Artificial Burrow Replacement Plan</u> as appropriate.</p>	<p>Condition of Approval #8.48</p>	<p>Before Starting Covered Activities</p>	<p>Permittee and Designated Biologist(s)</p>	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>O&M Covered Activities Covered Species Injury.</u> If a Covered Species is injured as a result of conducting O&M Covered Activities, or otherwise found injured in the Project Area, the Designated Biologist(s) or Designated Surveyor(s) (as applicable) shall immediately take the Covered Species to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting O&M Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately by phone and e-mail followed by a written incident report within two calendar days of the incident as described in Condition of Approval <u>Covered Species Injury.</u></p>	<p>Condition of Approval #8.49</p>	<p>Entire Project</p>	<p>Designated Biologist(s)</p>	
<p><u>Habitat Management Land Acquisition:</u> CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.</p> <p>To meet this requirement, the Permittee shall provide for both the permanent protection and management of 3,993 acres of Habitat Management (HM) lands pursuant to the Condition of Approval <u>Habitat Management Lands Acquisition and Protection</u> and the calculation and deposit of the management funds pursuant to the Condition of Approval <u>Endowment Fund</u>. The Permittee has proposed specific properties known as the Spanish 7, LLC properties (hereafter, Spanish 7 Lands) as HM lands, which are depicted in Figure 4. CDFW has conceptually agreed to the biological appropriateness of the Spanish 7 Lands as they are comprised of high-quality grassland habitat and are known to be occupied by BNLL individuals, SJKF denning and foraging individuals, and SWHA foraging individuals. Further, the Spanish 7 Lands proposed HM Lands provides essential connectivity for the Covered Species and will secure important genetic connectivity for BNLL between the Antelope Plain Population with the Lokern and Buena Vista Populations of the Western Kern County Core Recovery Area (Richmond et al. 2017). Conservation of the Spanish 7 Lands would contribute to multiple recovery actions for the Covered Species listed in the Upland Species of the San Joaquin Valley Recovery Plan (Recovery Plan) written by the USFWS and published on September 30, 1998. Specifically, for BNLL, conservation of the Spanish 7 Lands will help achieve Recovery Action 3.d. <i>Protecting additional habitat for BNLL in key portions of their range; areas of highest priority to target for protection which includes natural lands west of Highway 33 and east of the coastal ranges between the Pleasant Valley, Fresno County, on the north and McKittrick Valley, Kern County on the south.</i> In addition, conservation of the Spanish 7 Lands and the required management in perpetuity will allow Recovery Action 1. of the Recovery Plan to be achieved by <i>determining appropriate habitat management and compatible land uses for BNLL.</i> Should conservation of the Spanish 7 Lands be infeasible, Permittee shall ensure that an alternative 3,993 acres of HM Lands are provided which are comparable or better in habitat quality than the Spanish 7 Lands and are occupied by the Covered Species, provide regional importance to the conservation of BNLL, and achieve one or more Recovery Actions of the Recovery Plan for BNLL.</p> <p>The permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 24 months of the effective date of the ITP if Security is provided pursuant to the Condition of Approval <u>Security</u>, for all uncompleted obligations.</p>	<p>Condition of Approval #9</p>	<p>Before Starting Covered Activities or within 24-months of the issuance of the ITP if Security is provided</p>	<p>Permittee</p>	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Cost Estimates.</u> For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands as follows:</p> <p>1.1.1. Land acquisition costs for HM lands identified in the Condition of Approval <u>Habitat Management Lands Acquisition and Protection</u>, estimated at \$2,318.00/acre for 3,993 acres: \$9,255,774.00. Land acquisition costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;</p> <p>1.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in the Conditions of Approval <u>Fee Title and Conservation Easement</u> estimated at: \$423,600.00;</p> <p>1.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in the Condition of Approval <u>Start-up Activities</u>, estimated at: \$37,001.25;</p> <p>1.1.4. Interim management period funding as described in the Condition of Approval <u>Interim Management (Initial and Capital)</u>, estimated at: \$972,890.63;</p> <p>1.1.5. Long-term management funding as described in the Condition of Approval <u>Endowment Fund</u>, estimated at \$381.33/acre for 3,993 acres: \$1,522,673.46 Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.</p> <p>1.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in the Condition of Approval <u>Reimburse CDFW</u>, estimated at: \$12,000.00.</p> <p>1.1.7. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work estimated at: \$42,000.00..</p>	<p>Condition of Approval #9.1</p>	<p>Before Starting Covered Activities or within 24-months of the issuance of the ITP if Security is provided</p>	<p>Permittee</p>	

<p><u>Habitat Management Lands Acquisition and Protection.</u> Permittee shall provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations. Specifically, Permittee shall:</p> <ul style="list-style-type: none"> • <u>Fee Title.</u> Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. • <u>Conservation Easement.</u> If CDFW does not hold fee title to the HM lands, CDFW may act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the “doctrine of merger” could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement. • <u>HM Lands Approval.</u> Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project’s impacts on Covered Species; • <u>HM Lands Documentation.</u> Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services; • <u>Land Manager.</u> Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion. 	<p>Condition of Approval #9.2</p>	<p>Before Starting Covered Activities or within 24-months of the issuance of the ITP if Security is provided</p>	<p>Permittee</p>	
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Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<ul style="list-style-type: none"> • <u>Start-up Activities</u>. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&inline) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage; • <u>Interim Management (Initial and Capital)</u>. Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. <p>Permittee shall either (1) provide Security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.</p>	Condition of Approval #9.2 cont.	Before Starting Covered Activities or within 24-months of the issuance of the ITP if Security is provided	Permittee	
<p><u>Endowment Fund</u>. The Permittee shall provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, thus the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the ITP, the conservation easement, and the management plan required by the Condition of Approval <u>Land Manager</u>. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions, and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment</p>	Condition of Approval #9.3	Before Starting Covered Activities or within 24-months of the issuance of the ITP if Security is provided	Permittee	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Identify an Endowment Manager.</u> The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.</p> <p>Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).</p> <p>Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3)</p>	<p>Condition of Approval #9.3.1</p>	<p>Before Starting Covered Activities or within 24-months of the issuance of the ITP if Security is provided</p>	<p>Permittee</p>	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Calculate the Endowment Funds Deposit.</u> After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.</p> <p>1.1.1.1. <u>Capitalization Rate and Fees.</u> Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.</p> <p>1.1.1.2. <u>Endowment Buffers/Assumptions.</u> Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <p>1.1.1.2.1. <u>10 Percent Contingency.</u> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</p> <p>1.1.1.2.2. <u>Three Years Delayed Spending.</u> The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>1.1.1.2.3. <u>Non-annualized Expenses.</u> For all large capital expenses to occur periodically but not annually such as fence replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.</p>	<p>Condition of Approval #9.3.2</p>	<p>Before Starting Covered Activities or within 24-months of the issuance of the ITP if Security is provided</p>	<p>Permittee</p>	
<p><u>Transfer Long-term Endowment Funds.</u> Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.</p>	<p>Condition of Approval #9.3.3</p>	<p>Before Starting Covered Activities or within 24-months of the issuance of the ITP if Security is provided</p>	<p>Permittee</p>	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p><u>Management of the Endowment.</u> The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended. Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds. Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure</p>	<p>Condition of Approval #9.3.4</p>	<p>Before Starting Covered Activities or within 24-months of the issuance of the ITP if Security is provided</p>	<p>Permittee</p>	
<p><u>Reimburse CDFW.</u> Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of the ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.</p>	<p>Condition of Approval #9.4</p>	<p>Before Starting Covered Activities or within 24-months of the issuance of the ITP if Security is provided</p>	<p>Permittee</p>	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p>Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by the Condition of Approval <u>Habitat Management Land Acquisition</u> that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <ol style="list-style-type: none"> 1.1. <u>Security Amount</u>. The Security shall be in the amount of \$12,265,939.34, or in the amount identified in the Condition of Approval <u>Cost Estimates</u> specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in the Condition of Approval <u>Cost Estimates</u>, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring. 1.2. <u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. 1.3. <u>Security Timeline</u>. The Security shall be provided to CDFW before Covered Activities begin or within 6 months after the effective date of the ITP, whichever occurs first. 1.4. <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW. 1.5. <u>Security Transmittal</u>. Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other. 1.6. <u>Security Drawing</u>. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of the ITP. 1.7. <u>Security Release</u>. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by: <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 24 months from the effective date of the ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	<p>Condition of Approval #10</p>	<p>Before Starting Covered Activities or within 24-months of the issuance of the ITP if Security is provided</p>	<p>Permittee</p>	

ATTACHMENT 2

Biologist Resume Form



Department of Fish and Wildlife

BIOLOGIST RESUME FORM

This form requests information about the qualifications of the Qualified Biologist, Designated Biologist and Designated Monitor specified in California Endangered Species Act Incidental Take Permits (ITP) and Lake or Streambed Alteration (LSA) Agreements issued by California Department of Fish and Wildlife (CDFW).

Completing this form will ensure the receipt of adequate information and expedite CDFW review of qualifications.

SECTION I. NAME AND CONTACT INFORMATION

Name:		Title:	
Company Name & Address:		Phone:	
		Email:	

SECTION II. EDUCATION

College/University & Degree Type Related to Natural Resource Science:	
Other Relevant Workshops & Training:	

SECTION III. ROLE(S) AND PERMIT REQUIREMENTS

Requested Role(s):	
Relevant LSA Agreement Measures or ITP Conditions ² :	

SECTION IV. SPECIES AND RESOURCE EXPERIENCE – SUMMARY

This section summarizes experience by special status species and other resource. Use one row for each species or other resource where surveys or special protections are required in the CESA ITP or LSA Agreement for which biologist approval is requested.³ If more space is needed, add rows to this table. Provide details in Section 5.

Species or Resource	Number of Field Seasons & Hours, Life Stages Observed <i>Provide project details in Section 5</i>	Life History Knowledge <i>Describe formal workshops & training with dates, or informal training details</i>	CDFW SCP, MOU, & USFWS 10a1a Authorization Number & Authorized Activities <i>This form does not fulfill SCP, MOU, & USFWS 10a1a reporting requirements</i>	
Insert Species or Resource 1	Field seasons: Hours: Life Stages:			Issued to: Expiration: Agency contact:
Insert Species or Resource 2	Field seasons: Hours: Life Stages:			Issued to: Expiration: Agency contact:
Insert Species or Resource 3	Field seasons: Hours: Life Stages:			Issued to: Expiration: Agency contact:

² List all measures and conditions from the LSA Agreement or ITP requiring biological staff (i.e., Qualified Biologist, Designated Biologist, or Designated Monitor).

³ Often LSA Agreements/ITPs require surveys and other protections for multiple species and other resources. Include only those for which the biologist has experience and is requesting approval.

SECTION V. SPECIES AND RESOURCE EXPERIENCE – DETAILS

This section details experience from the three most recent and relevant projects for each species and resource identified in Section 4. If more space is needed, attach additional pages in the same table format (i.e., copy/paste format).

A. Species or Resource:			
Project 1 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s) ⁴ :	
Survey Type(s) ⁵ :		Construction Monitoring ⁶ :	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB ⁷ (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 2 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 3 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:

⁴ Insert the role as described in the associated LSA Agreement, ITP or other agency permit. If these permits were not issued, describe the role based on the duties, e.g., “lead biologist with handling authorization” or “designated monitor.”

⁵ For example, pre-construction survey or description of the protocol or guideline followed.

⁶ Include the number of days and describe the types of activities monitored (e.g., heavy equipment operation).

⁷ CNDDDB is the abbreviation for California Natural Diversity Database.

Project Name:
LSA Agreement/ITP Number(s):

Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Additional Information:			

B. Species or Resource:			
Project 1 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 2 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 3 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:

Project Name:
LSA Agreement/ITP Number(s):

Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Additional Information:			

C. Species or Resource:			
Project 1 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 2 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:
Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Project 3 Name & Location:		Project Start & End Dates:	
LSA Agreement, ITP, or Other Agency Permit Number:		Role(s):	
Survey Type(s):		Construction Monitoring:	Days: Activities:

Project Name:
LSA Agreement/ITP Number(s):

Species Life Stages Observed & Handled, Number of Each:	Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:	
If <u>not</u> reported to CNDDDB, why:			
CDFW and Other Agency Email:			
Additional Information:			

ATTACHMENT 3

Letter of Credit Form

Attachment 3

[Financial institution letterhead]

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

Issue Date: **[date]**

Beneficiary:

California Department of Fish and Wildlife
Habitat Conservation Planning Branch
Post Office Box 944209
Sacramento, CA 94244-2090
Attn: HCPB Contract Coordinator

Amount: U.S. \$**[dollar number]** **[(dollar amount)]**

Expiry: **[Date]** at our counters

Dear Sirs:

1. At the request and on the instruction of our customer, **[name of applicant]** ("Applicant"), we, **[name of financial institution]** ("Issuer"), hereby establish in favor of the beneficiary, the California Department of Fish and Wildlife ("CDFW"), this irrevocable standby letter of credit ("Credit") in the principal sum of U.S. \$**[dollar number]** **[(dollar amount)]** ("Principal Sum").
2. We are informed this Credit is and has been established for the benefit of CDFW pursuant to the terms of the incidental take permit for the **[name of project]** issued by CDFW to the Applicant on **[date]** (No. **[number]**) ("Permit").
3. We are further informed that pursuant to the Permit, the Applicant has agreed to complete certain mitigation requirements in the Permit ("Mitigation Requirements").
4. We are finally informed that this Credit is intended by CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. CDFW shall be entitled to draw upon this Credit only by presentation of a duly executed Certificate for Drawing ("Certificate") in the same form as Attachment A,

which is attached hereto, at our office located at [***name and address of financial institution***].

6. The Certificate shall be completed and signed by an Authorized Representative of CDFW as defined in paragraph 12 below. Presentation by CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.
7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of CDFW, as defined in paragraph 12 below.
12. An Authorized Representative shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Chief of CDFW's Habitat Conservation Planning Branch.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at [***name and address of financial institution***], specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for CDFW: Department of Fish and Wildlife, Habitat

Conservation Planning Branch, Post Office Box 944209, Sacramento, CA 94244-2090, Attn: HCPB Contract Coordinator; and (ii) for the Applicant: [***name and address of applicant***].

15. This Credit may not be transferred.
16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the Uniform Commercial Code, Article 5 of the State of California.
17. This Credit shall, if not canceled, expire on [***expiration date***], or any extended expiration date.
18. We hereby agree with CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.
19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[Name of financial institution]

By: _____
Name: _____
Title: _____
Telephone: _____

ATTACHMENT A

CERTIFICATE FOR DRAWING

[CDFW Letterhead]

[Date]

[Name and address of financial institution]

Re: Irrevocable Standby Letter of Credit No. **[number issued by financial institution]**

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in paragraph 12 in the above-referenced standby letter of credit ("Credit"), hereby certifies to the Issuer that:

1. **[Insert one of the following statements:** "In the opinion of CDFW, the Applicant has failed to complete the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "As set forth in paragraph 13, the Issuer has informed CDFW that the Credit will not be extended and the Applicant has not provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. The undersigned is authorized under the terms of the Credit to present this Certificate as the sole means of demanding payment on the Credit.
3. CDFW is therefore making a drawing under the Credit in amount of U.S. \$_____.
4. The amount demanded does not exceed the Principal Sum of the Credit.

Therefore, CDFW has executed and delivered this Certificate as of this ___ day of **[month]**, **[year]**.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

[Insert one of the following: "Director" **or** "General Counsel" **or** "Regional Manager, **[Name of Regional Office]**" **or** "Chief, Habitat Conservation Planning Branch"]

ATTACHMENT B

CERTIFICATE FOR CANCELLATION

[CDFW Letterhead]

[Date]

[Name and address of financial institution]

Re: Irrevocable Standby Letter of Credit No. **[number issued by financial institution]**

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in the paragraph 12 in the above-referenced Irrevocable Standby Letter of Credit ("Credit"), hereby certifies to the Issuer that:

1. **[Insert one of the following statements:** "The Applicant has presented documentary evidence of full compliance with the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "The Applicant has provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. CDFW therefore requests the cancellation of the Credit.

Therefore, CDFW has executed and delivered this Certificate for Cancellation as of this ____ day of **[month]**, **[year]**.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

[Insert one of the following: "Director" **or** "General Counsel" **or** "Regional Manager, [Name of Regional Office]" **or** "Chief, Habitat Conservation Planning Branch"]

ATTACHMENT 4

Mitigation Payment Transmittal Form

State of California - Department of Fish and Wildlife
MITIGATION PAYMENT TRANSMITTAL FORM
 DFW 1057 (NEW 07/28/17)

Project Applicant Instructions: Please fill out and attach this form to payment. For conservation banks, also attach the Bill(s) of Sale for credits sold. One form may be used for multiple transactions, **BUT YOU MUST USE A SEPARATE FORM FOR EACH CHECK YOU TRANSMIT.** Make sure to include Project Name, Project Tracking Number, and ASB Mitigation Tracking Number (if available) on the attached payment type.

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

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

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

Project Tracking Number

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

Check information:

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

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

b. Habitat Enhancement Subtotal \$ _____

c. Security:

 1. Cash Refundable Security Deposit Subtotal \$ _____

 2. Letter of Credit Subtotal \$ _____

 1. Financial Institution: _____

 2. Letter of Credit Number: _____

 3. Date of Expiration: _____

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

ATTACHMENT 5

Retention Basins Table

Attachment 5

Table 1: Retention Basins

Retention Basin	MAPPED AREA (SQ FT)	MAPPED AREA (ACRES)	WIDTH (FT)	LENGTH (FT)	CALCULATED AREA (SQ FT)
Basin 1	106949.6008	2.455224996	565	245	138425
Basin 2	111492.9566	2.559526093	650	175	113750
Basin 3	91474.78422	2.09997209	190	500	95000
Basin 4	26200.06916	0.601470825	115	255	29325
Basin 5	89602.24382	2.056984477	245	375	91875
Basin 6	71213.5346	1.634837801	180	395	71100
Basin 7	50299.6044	1.154720028	165	325	53625
Basin 8	69205.07064	1.588729813	195	370	72150
Basin 9	70580.59149	1.620307426	375	195	73125
Basin 10	123332.6139	2.831327224	190	665	126350
Basin 11	73388.19041	1.684761029	385	200	77000
Basin 12	72948.04037	1.674656574	375	185	69375
Basin 13	122786.696	2.818794674	190	665	126350
Basin 14	94620.50083	2.172187806	430	230	98900
Basin 15	86249.33639	1.980012314	640	140	89600
Basin 16	107763.9003	2.47391874	150	730	109500
BESS 1	108490.3442	2.490595596	975	120	117000
BESS 2	76786.71295	1.762780371	170	465	79050
BESS 3	19468.43629	0.446933799	65	315	20475
SUB 1	30575.92141	0.70192657	245	130	31850
SUB 2	26208.45248	0.60166328	105	320	33600
SWYD 1	20250	0.464876033	450	45	20250
Total	1,629,637.60	37.41			1,717,425.00

ATTACHMENT 6

Major Amendment No. 1 with Track Changes

Attachment 6

Amended Incidental Take Permit No. 2081-2023-055-04
(Amendment No.1)

1) Amended ITP Background

II. Amended ITP¹ Background:

On October 4, 2024 the CDFW issued Incidental Take Permit No. 2081-2023-055-04 (ITP) to Pelicans Jaw Solar (Permittee) authorizing take of blunt-nosed leopard lizard (*Gambelia sila*), San Joaquin kit fox (*Vulpes macrotis mutica*), and Swainson’s hawk (*Buteo swainsoni*) (collectively, the Covered Species) associated with and incidental to the Pelicans Jaw Hybrid Solar Project in Kern County, California (Project). The Project as described in the ITP originally issued by CDFW included the construction, operation, and maintenance of a photovoltaic (PV) solar facility and appurtenant and associated infrastructure to generate up to 500-megawatts (MW) of renewable energy and up to 4,000 megawatt-hours (MWh) of battery energy storage on approximately 3,260 acres. In issuing the ITP, CDFW found, among other things, that Permittee’s compliance with the Conditions of Approval of the ITP would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

On October 18, 2024, the Permittee requested Major Amendment No. 1 to authorize take of western burrowing owl (*Athene cunicularia hypugaea*) during construction, operations, and maintenance associated and incidental to the Project.

CDFW now reissues this ITP (the Amended ITP). The Amended ITP includes all of the operative provisions as of the reissue date of this Amended ITP. Attachment 6 to this Amended ITP shows the specific red-line changes made to the ITP as a result of this Major amendment (Amendment No. 1).

* * *

2) Covered Species

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status²</u>
1. Blunt-nosed leopard lizard (<i>Gambelia sila</i>)	Endangered ³ and Fully Protected ⁴

¹ When this incidental take permit and attachments refer to the “ITP”, it means the “Amended ITP” unless the context dictates otherwise.

² Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

³ See Cal. Code Regs. tit. 14 § 670.5, subd. (a)(4)(B).

⁴ See Fish & G. Code §§ 5050 (a)(3)(b)(1) and 2081.15, subds. (a), (b)(2), and (c)-(f) (see also Senate Bill 147, stats. 2023). Senate Bill 147 has been enacted to add section 2081.15 to the Fish and Game Code to allow the CDFW to authorize the take of a fully protected species in subdivision (b) of

- 2. San Joaquin kit fox (*Vulpes macrotis mutica*) Threatened⁵
- 3. Swainson’s hawk (*Buteo swainsoni*) Threatened⁶
- 4. Western burrowing owl (*Athene cunicularia hyuqaea*) Candidate⁷

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

3) Impacts of the Taking on Covered Species

VI.VII. 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 which are expected to result in incidental take of individuals of the Covered Species, include: field surveys; site preparation; clearing and grubbing; laydown/staging areas and job trailers; utility relocation; installation of fencing and gates; installation of steel structures; installation of electrical and grounding systems; installation of above and below ground facilities (i.e. HDD, trenching); installation of communication systems; construction of site access roads; civil work activities (i.e. minimal cut/fill); installation and excavation of foundation systems, including steel, concrete, and other materials; mechanical erection of steel structures for the PV tracker; installation of PV modules; installation of battery storage and substation equipment; installation of O&M and control building; inspections, commissioning, and performance testing; O&M activities involving vegetation management, site access road maintenance, PV module cleaning/washing, preventative maintenance, and replacement of equipment as needed (i.e. inverters); handling, salvaging, and otherwise capturing Covered Species in order to relocate, translocate, or rehabilitate injured individuals; and other Project-related activities described in the Project Description section of this ITP (Covered Activities).

Incidental take of individuals of blunt-nosed leopard lizard (BNLL) and San Joaquin kit fox (SJKF) in the form of mortality (“kill”) may occur within the Project Area as a result of construction and O&M Covered Activities during burrow or den collapse that results in crushing or suffocation of underground Covered Species during excavation and compaction activities; entombment of individuals from deposition of fill material, or spoils over occupied burrows or dens; entrapment and burial during excavation and installation activities; crushing by equipment; loss of microhabitats; corralling/capturing Covered Species into a confined area with no escape; vehicle/equipment strikes from Project-related traffic; and noise and ground vibration that could cause individuals to leave

Section 5050 resulting from impacts attributable to the implementation of a solar photovoltaic project and any appurtenant infrastructure improvement, and any associated electric transmission project carrying electric power from a facility that is located in the State to a point of junction with any California-based balancing authority if the conditions set forth in Fish and Game Code section 2081.15, subdivisions (a-f) and section 2081, subdivisions (b) and (c) are met (See Cal. Code Regs., tit. 14, § 783.4, and Senate Bill No. 147, stats. 2023).

⁵See *Id.*, subd. (b)(6)(E).

⁶See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(5)(A).

⁷The species status may change following the decision of the Fish and Game Commission to designate the species as threatened or endangered but if there is such a designation, the species will remain a Covered Species.

burrowburrows or dens at inappropriate times increasing stress, overheating, and exposure to predation. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursuit, catch, capture, translocation, or attempt to do so with entrapment of Covered Species into trenches or excavations, with corralling by installation of species exclusion fencing, with live capturing, with burrow excavation, and with implementation of other take minimization measures required by this ITP.

Incidental take of Swainson's Hawk (SWHA) and burrowing owl (BUOW) in the form of mortality ("kill") may occur as a result of construction and O&M Covered Activities involving vehicle strikes due to increased Project-related traffic and as a result of the loss of eggs, young, or fledglings due to abandonment of nests during clearing, grubbing, site preparation, construction, and O&M occurring in close proximity to nests during the SWHA and BUOW nesting season. Incidental take of SWHA and BUOW individuals may also occur from Covered Activities in the form of pursue, catch, and capture when eggs or individuals are salvaged after parental nest abandonment has occurred. The chance of viability of eggs and/or survival for SWHA and BUOW in this circumstance is greatly reduced. Direct impacts to foraging and nesting habitat could also affect migrating individuals, and the fitness of SWHA and BUOW young raised in close proximity to the Project due to reduced or disrupted foraging opportunities that reduce the ability of parents to acquire food for their dependent young. Ground-disturbing activities could result in a temporary reduction of prey species for SWHA and BUOW and temporary effects on nesting success on the utility poles ~~and~~, trees, or burrow habitat, as applicable, near the Project Area. Indirect impacts to nesting SWHA and BUOW from the Covered Activities include noise and vibration, fugitive dust, and increased human activity. Noise and vibration could cause physiological and/or behavioral disruptions that may interfere with foraging and breeding, including temporary or permanent nest abandonment. O&M Covered Activities could indirectly affect nesting SWHA and BUOW through noise and increased human activity.

Incidental take of the Covered Species is expected to occur throughout the entire 3,069-acre Project Area all of which will be impacted. Covered Species habitat is low quality leveled non-native grassland formerly in irrigated agricultural production. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from ground disturbance, equipment operation, and traffic; temporary displacement; stress resulting from capture and relocation/translocation; increased exposure or stress from disorientation; fugitive dust; visual disturbance; long-term effects due to displacement from preferred habitat; loss of foraging habitat; increased competition for food and space; loss of burrowing habitat used for shelter, reproduction, and escape cover; increased human activity which could result in a reduction in prey abundance and/or availability; and increased vulnerability to disease and predation. Noise and vibration could cause physiological and/or behavioral disruptions that may interfere with breeding, result in nest abandonment, and a loss of fitness in dependent young resulting from interruptions to brooding and/or feeding schedules, due to impaired or interrupted foraging and nesting opportunities and

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because forage acquired further away from the nest is more energetically expensive for parents acquiring food for their dependent young.

* * *

4) General Provisions

6.2. Designated Biologist(s), Designated Surveyor(s), and Designated Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s), Designated Surveyor(s), and Designated Monitor(s) using the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 30 days before starting Covered Activities. The Designated Monitor(s) may assist the Designated Biologist(s) and Designated Surveyor(s) in compliance monitoring under the direct supervision of the Designated Biologist(s) or Designated Surveyor(s).

Permittee shall ensure that the Designated Biologist(s) and Designated Surveyor(s) for blunt-nosed leopard lizard, San Joaquin kit fox, and Swainson's hawk are knowledgeable and experienced in the biology, natural history, capturing, handling, and relocating of the applicable Covered Species. Permittees shall ensure that the Designated Biologist for western burrowing owl is knowledgeable and experienced in the biology, natural history, surveying, monitoring, and exclusion techniques. Permittee shall also ensure that the Designated Biologist(s) is experienced in the excavation of burrows or dens actively used by the Covered Species, as applicable, and in the monitoring of construction activities under an ITP for the Covered Species. Due to the recent regulatory change addressing take of BNLL, alternative experience for a Designated Biologist approved for BNLL may be substituted at CDFW's discretion that equals the depth or breadth of experience that handling, relocating, and excavation of burrows would bring. Permittee shall ensure that the Designated Surveyor(s) and Designated Monitor(s) are knowledgeable and experienced in the biology and natural history of the applicable Covered Species. The Designated Biologist(s), Designated Surveyor(s), and Designated 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), Designated Surveyor(s), and Designated Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) must be changed.

* * *

5) Take Minimization Measures

8.7. Excavation Inspection. The Designated Biologist(s), ~~or Designated Surveyor(s),~~ or Designated Monitor(s) shall inspect all trenches, open holes, ~~pits, sumps,~~ and other excavations (collectively, Excavations) within the Project Area ~~at the beginning and end of each day for Covered Species and other~~ trapped animals. ~~All trenches, holes, pits, sumps every day. If the Excavations have slopes less steep than 1:1, are covered as described below, or have escape ramps as described below, these checks can be reduced to immediately before Excavations are backfilled, during workdays, and other excavations after rain events that could wash out escape ramps.~~

- Cover: Unless inspected daily, all Excavations with sidewalls steeper than a 1:1 (45-degree) slope shall be covered when workers or equipment are not actively working in the ~~excavation~~ Excavation, which includes cessation of work overnight, or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. ~~as described below.~~ To prevent inadvertent entrapment of the Covered Species, the Designated Biologist(s), ~~Designated Surveyor(s),~~ or Designated Monitor(s) shall oversee the covering of all such ~~excavations~~ Excavations 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~~ Excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and shall be secured with soil staples or similar means to prevent gaps. ~~Each morning, the end of each day (including weekends and any other non-workdays), and immediately before trenches, holes, sumps, or other excavations are back filled, the Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) shall thoroughly inspect them for Covered Species.~~ The Designated Biologist(s), ~~Designated Surveyor(s),~~ or Designated Monitor(s) shall also thoroughly inspect any ~~trenches, holes, sumps, or other excavations~~ Excavations that are covered long term at the beginning of each working day to ensure inadvertent entrapment has not occurred and shall make any necessary repairs to the cover. ~~If any worker discovers a Covered Species has become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) or Designated Surveyor(s) immediately. Project workers and the Designated Biologist(s) or Designated Surveyor(s) shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue. If Covered Species is unable to escape safely on its own based on the evaluation of the Designated Biologist(s) or Designated Surveyor(s) then CDFW shall be contacted for consultation and approval of methods to allow for safe removal of Covered Species.~~

- Escape Ramp: As an alternative to covering, all Excavations may have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. All Excavations shall have an additional escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope for every additional 50 feet of Excavation length. For example, a 50-foot-long Excavation would have two escape ramps and a 100-foot-long Excavation would have three escape ramps.

* * *

Western Burrowing Owl Specific Take Minimization Measures:

8.28. Western Burrowing Owl Mortality Reduction Plan. Permittee shall submit a Western burrowing owl (BUOW) Mortality Reduction Plan prepared by the Designated Biologist to CDFW prior to commencing BUOW burrow exclusion, burrow excavation, artificial burrow construction, and other relocation activities (collectively termed BUOW Exclusion Activities). BUOW Exclusion Activities shall not proceed until this plan has been approved in writing by CDFW. The BUOW Mortality Reduction Plan shall include, but not be limited to: detailed description of survey methodology; detailed burrow exclusion and excavation methods; proposed Covered Activities that may be performed within BUOW avoidance buffers; identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured BUOW or care for at-risk BUOW, BUOW eggs, and/or BUOW chicks; and procedure for collection and storage of BUOW carcasses. Only CDFW-approved Designated Biologist(s), or personnel following directions from and under the supervision of the Designated Biologist, are authorized to handle and transport injured BUOW for treatment or impacted BUOW eggs for salvage. All other BUOW handling or capture is prohibited.

Once the BUOW Mortality Reduction Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated by CDFW to reflect best available science in which case CDFW will contact the Permittees to discuss needed updates. Any proposed changes to the BUOW Mortality Reduction Plan shall be submitted, in writing, to CDFW and approved in writing prior to the implementation of any proposed modifications.

8.29. BUOW Artificial Burrow Replacement Plan. Permittee shall replace each known BUOW burrow (as defined in the BUOW Burrow Avoidance Condition of Approval) that cannot be avoided within the Project Area with an artificial burrow to compensate for the loss of important shelter used by BUOW for protection, reproduction, and escape from predators. Permittee shall submit a BUOW Artificial Burrow Replacement Plan prepared by an approved Designated Biologist to CDFW within 30 days of ITP issuance. Implementation of

the BUOW Artificial Burrow Replacement Plan shall not proceed until this plan has been approved in writing by CDFW. The BUOW Artificial Burrow Replacement Plan shall include, but not be limited to: a discussion and map of potential artificial burrow replacement locations; description of the replacement burrow design and dimensions (e.g., depth and width of burrow, width of burrow entrance, orientation of burrow entrance, number and placement of entrances, etc.); artificial burrow installation methods; long-term artificial burrow maintenance methods; and timing of BUOW burrow installation/construction.

Once the BUOW Artificial Burrow Replacement Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated by CDFW to reflect best available science in which case CDFW will contact the Permittees to discuss needed updates. Any proposed changes to the BUOW Artificial Burrow Replacement Plan shall be submitted, in writing, to CDFW and approved in writing by CDFW prior to the implementation of any proposed modifications.

8.30. BUOW Pre-Construction Surveys and Reporting. The Designated Biologist(s) shall conduct surveys to identify potential, known, and/or nesting BUOW burrows (as defined in the BUOW Burrow Avoidance Condition of Approval) prior to beginning BUOW Exclusion Activities in each distinct Work Area(s) (a work site/phase within the Project Area. Surveys shall include the Work Area and 500 feet (where feasible) beyond the limits of the Project Area (or distinct Work Area(s)), unless otherwise approved in advance in writing by CDFW. If the Designated Biologist(s) identifies any potential, known, or nesting BUOW burrows, the burrow(s) shall be monitored following the BUOW Burrow Blockage and BUOW Burrow Excavation Conditions of Approval, unless avoided per the BUOW Burrow Avoidance Condition of Approval. Permittee shall provide the preconstruction survey results with a Burrow Map (see Burrow Map Condition of Approval) in a written report to CDFW's Regional Representative prior to starting BUOW Exclusion Activities in the Project Area or in each distinct Work Area(s). The report shall include, but not be limited to, methodology, survey date, and apparent status of each burrow (potential, known, or nesting).

8.31. Burrow Map. The Designated Biologist shall provide a KMZ map to CDFW of all BUOW burrows found during the surveys performed per the BUOW Pre-Construction Surveys and Reporting Condition of Approval. The map shall show details and locations of all BUOW sightings and potential, known, and nesting BUOW burrows as defined in the BUOW Burrow Avoidance Condition of Approval. The map shall include an outline of the Project Area and any distinct Work Area(s) surveyed within the Project Area, title, north arrow, scale bar, and legend.

8.32. BUOW Burrow Avoidance. The Permittee shall establish no-disturbance buffer zones around potential, known and nesting BUOW burrows according to the following guidelines:

- If a potential BUOW burrow (any subterranean hole three inches or larger for which no evidence is present to conclude that the burrow is being used or any past use by a BUOW) is discovered, the Permittee shall establish a minimum a 50-foot no-disturbance buffer around the burrow.
- If a known BUOW burrow (a burrow that is known to have been used or shows evidence of current or past use) or an "atypical" burrow (e.g., a pipe, culvert, buckled concrete, etc.) showing signs of occupancy (e.g. BUOW presence, whitewash, pellets, prey remains, etc.) is discovered, the Permittee shall establish a minimum no-disturbance buffer of at least 100 feet around the burrow. A no-disturbance buffer of at least 1,600 feet shall be established around known BUOW burrows currently occupied by BUOW during the nesting season (typically February 1 to August 31 in this area).
- If a nesting BUOW burrow used for nesting (e.g. known BUOW burrow indications of the presence of eggs, chicks, dependent young, and/or brooding or egg incubation) is discovered within or immediately adjacent to the Project Area, the Permittee shall notify CDFW's Regional Representative immediately via e-mail. A no-disturbance buffer of at least 1,600 feet shall be established around the nest burrow. A no-disturbance buffer of at least 1,600 feet shall be established around known BUOW burrows currently occupied by BUOW during the nesting season (February 1 to August 31).

If BUOW burrows cannot be avoided as described above, then the Permittees shall follow the BUOW Burrow Blockage, BUOW Burrow Excavation, and BUOW Mortality Reduction Plan Conditions of Approval as appropriate. If BUOW are visibly stressed by the Covered Activities or workers in the vicinity after these no-disturbance buffers are established, all work in the vicinity shall immediately cease and increased no-disturbance buffers will be determined by the Designated Biologist(s) based on their behavioral observations of the affected BUOW.

The buffers prescribed above shall not be reduced or otherwise modified without prior written CDFW approval. If the Designated Biologist determines that specific Covered Activities are not likely to affect the BUOW using known or nesting BUOW burrows due to the nature of the specific Covered Activities and/or due to objects or topography that might reduce potential noise disturbance and obstruct view of the Covered Activities from the nest, then the Designated Biologist may email a written request to CDFW to reduce the buffer distance with documented observational data (Buffer Reduction Request). CDFW will review each Buffer Reduction Request on a case-by-case basis and provide a determination in response to each Buffer Reduction Request in writing. CDFW

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may request additional and/or ongoing biological monitoring prior to approving a Buffer Reduction Request.

8.33. BUOW Burrow Blockage. Where CDFW has approved a buffer reduction, the Permittee shall block rather than destroy any BUOW Burrow located within the buffer distances prescribed by the BUOW Burrow Avoidance Condition of Approval, but outside the discrete Work Area(s) within the Project Area where ground- and vegetation-disturbing Covered Activities will be performed. Burrows (including burrows in natural substrate and in/under man-made structures) may be blocked only immediately after the Designated Biologist(s) has conducted four consecutive 24-hour periods of monitoring with infrared camera and determined that BUOW is not currently present. Nesting BUOW nest burrows shall not be blocked until biological and camera monitoring confirm that the chicks and adults have vacated the burrow and/or the chicks have fledged, and are no longer dependent on the nest, and CDFW provides written concurrence. Burrow blockage shall be done in a manner that prevents burrowing animals from digging back into the burrow. All blocked burrows shall be monitored by the Designated Biologist(s) or Designated Monitor(s) at least once a week to ensure that the exclusion material is still intact. If BUOW regains access to the burrow, the Permittee shall contact CDFW immediately and obtain written guidance regarding how to proceed. All blocked burrows shall be unblocked within 48 hours of completion of Construction Covered Activities within the prescribed buffer distance.

8.34. BUOW Burrow Excavation. The Designated Biologist, or Designated Monitor under direct supervision of the Designated Biologist, shall excavate known or potential burrows that exhibit signs of current or past BUOW use or characteristics suggestive of a BUOW burrow (including burrows in natural substrate and in/under man-made structures) that cannot be avoided per the BUOW Burrow Avoidance Condition of Approval and that are within the Project Area. Burrows to be destroyed shall be fully excavated, filled with dirt, and compacted to ensure that BUOW cannot reenter or use the burrow during the period that Covered Activities occur in the Project Area. If an individual BUOW does not vacate a burrow within a reasonable timeframe, Permittee shall consult with CDFW for written guidance before proceeding with burrow excavation. An established BUOW burrow no-disturbance buffer may be removed once the burrow is collapsed and BUOW are no longer using the burrow.

- Excavation of known BUOW burrows shall only occur after the Designated Biologist has determined that BUOW is not currently present after 4 consecutive 24-hour periods of monitoring with infrared cameras. If the excavation process reveals evidence of current use by BUOW, then burrow excavation shall cease immediately, and camera monitoring as described above shall be conducted/resumed. BUOW burrows shall be carefully excavated with hand tools, or by mechanical means if a

specific methodology is approved in writing by CDFW, until it is clear no individuals of BUOW are inside.

- Potential BUOW burrows without any signs of BUOW use or characteristics suggesting it is a BUOW burrow may be excavated under the direct supervision of the Designated Biologist without camera monitoring.
- Nesting BUOW burrows used for nesting shall not be excavated until biological and camera monitoring confirm that the chicks have fledged and are no longer dependent on the nest and then only after written concurrence from CDFW.

8.35. Restrictions for Nightwork. Permittee shall ensure that any nightwork done in the vicinity of an occupied BUOW burrow follows the BUOW Burrow Avoidance Condition of Approval. Permittee shall ensure that no permanent or temporary, fixed, exterior lighting, including motion-triggered security lighting, will cast light on BUOW habitat beyond the Project Area. The Designated Biologist(s) shall be on-site during all non-emergency vegetation or ground disturbing Covered Activities performed at night. Permittees shall ensure that all vehicle traffic necessary during nighttime Covered Activities be conducted at speeds of less than 10 mph to minimize impacts to Covered Species.

8.36. BUOW Injury. If a BUOW is injured or found dead within the vicinity of the Project Area, the Permittee shall notify CDFW of the injury or mortality to the BUOW immediately by e-mail as described in the Notification of Take or Injury Condition of Approval. The Designated Biologist shall follow the BUOW Mortality Reduction Plan to either immediately transport injured individuals to a CDFW-approved wildlife rehabilitation center or veterinary facility or follow approved collection and storage procedures for deceased animals. Permittees shall bear any cost associated with care and recovery of any injured BUOW adults, nestling(s) or egg(s) and hacking (controlled release of captive reared young).

O&M Phase Covered Activities Take Minimization Measures

8.27-8.37. O&M Covered Activities. Permittee shall implement Conditions of Approval General Provisions and Monitoring, Notification and Reporting Provisions of this ITP for all O&M Covered Activities as applicable.

8.28-8.38. O&M Covered Activities Designated Biologist(s) On-site. The CDFW-approved Designated Biologist(s), Designated Surveyor(s), or Designated Monitor(s) as applicable, shall be on-site during all ground- and vegetation-disturbing activities. The Designated Biologist(s) shall be on-site during all non-emergency ground- and vegetation-disturbing Covered Activities performed at night.

8.29-8.39. O&M Covered Activities Work Hours. Permittee shall confine any O&M Covered Activities to daylight hours (sunrise to sunset) with the exception of any O&M or replacement work that must occur after dark to ensure PV arrays are not energized, emergency response activities (e.g. catastrophic failures, security issues, etc.), or speciesCovered-Species-specific take minimization measures as applicable. Permittee shall ensure that all vehicle traffic necessary during nighttime Covered Activities be conducted at speeds of less than 10 mph to minimize impacts to Covered Species.

8.30-8.40. O&M Covered Activities Vehicle Parking. During all O&M Covered Activities or Covered Species-specific take minimization measures, Permittee shall not allow vehicles to park on top of potential Covered Species burrows or dens, or within 100 feet of an active SWHA nest. Vehicles left overnight shall not be located within 50 feet of Covered Species burrows or dens (known or potential), or within 100 feet of an active SWHA nest.

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8.48. O&M Covered Activities BUOW Burrow Avoidance. Unless otherwise approved in writing by CDFW, if a potential, known, or nesting BUOW burrow is identified, BUOW burrow avoidance shall occur in accordance with Condition of Approval BUOW Burrow Avoidance prior to conducting ground- or vegetation-disturbing O&M Covered Activities. If the no-disturbance buffers cannot be established, then den blockage or excavation and replacement (if applicable) shall occur in accordance with Conditions of Approval BUOW Burrow Blockage and BUOW Excavation, BUOW Burrow Mortality Reduction Plan, and BUOW Artificial Burrow Replacement Plan as appropriate.

8.38-8.49. O&M Covered Activities Covered Species Injury. If a Covered Species is injured as a result of conducting O&M Covered Activities, or otherwise found injured in the Project Area, the Designated Biologist(s) or Designated Surveyor(s) (as applicable) shall immediately take the Covered Species to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting O&M Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately by phone and e-mail followed by a written incident report within two calendar days of the incident as described in Condition of Approval Covered Species Injury.

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6) Attachments

Incidental Take Permit
No. 2081-2023-055-04
PELICANS JAW SOLAR, LLC
PELICANS JAW HYBRID SOLAR PROJECT

~~XVI~~.XVII. Attachments:

FIGURE 1	Project Location
FIGURE 2	Project Site Plan
FIGURE 3	Project Site During Operations and Maintenance
FIGURE 4	Proposed HM Lands (Spanish 7 Lands)
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form
ATTACHMENT 5	Retention Basins Table
<u>ATTACHMENT 6</u>	<u>Major Amendment No.1 with Track Changes</u>

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON _____

Julie A. Vance, Regional Manager
Central Region

Incidental Take Permit
No. 2081-2023-055-04
PELICANS JAW SOLAR, LLC
PELICANS JAW HYBRID SOLAR PROJECT