



**California Department of Fish and Wildlife  
Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534**

California Endangered Species Act  
Amended Incidental Take Permit No. 2081-2021-006-03  
(Amendment No. 1)

**MULQUEENEY RANCH WIND REPOWERING PROJECT**

**I. Authority:**

This Amended California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, title 14, section 783.0 et seq. CESA prohibits the take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> 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.)

<b>Permittee:</b>	<b>Mulqueeney Wind Energy, LLC</b>
<b>Principal Officer:</b>	<b>Berk Gursoy, Vice President Project Development</b> <a href="mailto:Berk.Gursoy@brookfieldrenewable.com">Berk.Gursoy@brookfieldrenewable.com</a>
<b>Contact Person:</b>	<b>Kimberly Peterson, (646) 992-2410</b> <a href="mailto:Kimberly.Peterson@brookfieldrenewable.com">Kimberly.Peterson@brookfieldrenewable.com</a>
<b>Mailing Address:</b>	<b>200 Liberty Street, 14th Floor, New York, NY 10281</b>

**II. Amended ITP<sup>3</sup> Background**

On January 22, 2021, Mulqueeney Wind Energy, LLC submitted a CESA ITP application to 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. Mulqueeney Wind Energy, LLC sought take coverage authorization for California tiger salamander (*Ambystoma californiense*) and San Joaquin kit fox (*Vulpes macrotis mutica*) associated with project-related impacts from the Mulqueeney Ranch Wind Repowering Project in Alameda County, California (Project).

<sup>1</sup>Pursuant to Fish and Game Code section 86, “‘take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” (See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 [for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’ ... means to catch, capture or kill”].)

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

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

On October 7, 2024, CDFW issued ITP No. 2081-2021-006-03 to Mulqueeney Wind Energy, LLC (Permittee) authorizing take of California tiger salamander and San Joaquin kit fox (collectively, the Covered Species) associated with and incidental to the Project. The Project as described in the ITP originally issued by CDFW includes repowering a previously decommissioned wind facility by constructing up to 19 new wind turbine generators with generating capabilities of up to 4.5 megawatts (MW) each for a maximum of 80 MW. The Project also includes widening of existing roads and construction of new access roads, the creation of a temporary construction area, construction of a meteorological tower, installation of up to 17 IdentiFlight units, and the installation of underground electrical lines connecting the turbines to a new substation that will be built adjacent to Pacific Gas and Electric Company's (PG&E) Tesla substation.

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. As stated in the original ITP, the Project was expected to result in the following impact acreages to Covered Species: 26.7 acres of permanent impacts to grassland habitat and a temporary loss of 185.3 acres of grassland habitat for both species.

On December 11, 2024, Permittee submitted a request for a Major Amendment to ITP No. 2081-2021-006-03 (see Cal. Code Regs., § 783.6(c)(5)) and associated fees on December 26, 2024. The amendment request detailed the Mulqueeney Ranch Wind Repowering Project's potential for incidental take of western burrowing owl (*Athene cunicularia hypugaea*), its impacts on their habitat, and its potential indirect impacts to the species. The amendment request included adding western burrowing owl as a Covered Species in the ITP. Both the original and amended ITP cover impacts for construction of the Project only; impacts from the Operations and Maintenance phase of the Project Phase of the Project will be approximately 30 years and will be covered under ITP Number 2081-2024-045-03. Since issuance of the original ITP, on October 10, 2024, the California Fish and Game Commission designated western burrowing owl as a candidate species under CESA. The requested amendment includes western burrowing owl as a Covered Species includes the following Covered Activities: eviction (passive relocation) of non-nesting burrowing owls, nest disturbance during Project construction, temporary obstruction of unoccupied burrow entrances, burrow excavation, and injury or mortality of owls by vehicle or construction equipment during construction.

CDFW now amends and reissues this ITP including the revised provisions in this first Major Amendment (Collectively, the Amended ITP). The Amended ITP includes all of the operative provisions as of the effective date of this Amended ITP. Attachment 6 to this Amended ITP shows the specific red-line changes made to the original ITP as a result of this Major Amendment.

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### III. Effective Date and Expiration Date of this ITP:

The original ITP's effective date was **October 7, 2024**. This remains the effective date for the original take authorization. This Amended ITP shall become effective upon execution by the Regional Manager for CDFW's Bay Delta Region. Unless renewed by CDFW, this Amended ITP and its authorization to take the Covered Species shall expire on **December 31, 2030**. This Amendment does not change the expiration date.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 7.9 of this ITP.

### IV. Project Location:

The Mulqueeny Ranch Wind Repowering Project (Project) is located south of Interstate 580 in northeastern Alameda County (Figure 1). The Project is 4,605 acres in size and located within the Altamont Pass Wind Resource Area (APWRA). Patterson Pass Road roughly bisects the Project area. The Project is within the Midway 7.5-minute U.S. Geological Survey quadrangle in Township 2 south, Range 3 east, Sections 35 and 36; Township 2 south, Range 4 east, Section 31; Township 3 south, Range 3 east, Sections 1, 2, 11, and 12; and Township 3 south, Range 4 east, Sections 5, 6, 7, 8, 17, and 18; 37°41'33"N, 121°34'47"W is the approximate center of the Project site.

The northeastern boundary of the proposed Project area is located adjacent to the Haera Wildlife Conservation Bank, a 299-acre property which was established as a conservation bank to provide compensatory credits for impacts to western burrowing owl, and San Joaquin kit fox. The bank also provides habitat for California tiger salamander.

The northwestern boundary of the Project area is located adjacent to the former Jess Ranch, owned by Contra Costa Water District, which was established as conservation for California tiger salamander, San Joaquin kit fox, California red-legged frog and western burrowing owl.

Near the center, but not part, of the proposed Project area lies the Two Sisters Burrowing Owl Preserve, a an approximately 155.76-acre property established as mitigation for western burrowing owl.

### V. Project Description:

The Project includes the construction of up to 19 new Wind Turbine Generators (WTG) to repower a previously decommissioned wind facility. The Project is expected to install turbines with generating capacities up to 4.5 megawatts (MW) each for a maximum of 80 MW. The exact turbine model has not yet been selected. The Permittee has identified 19 turbine sites and a range of potential turbine specifications. The final turbine type will be determined on the basis of site constraints, meteorological data, results of bird use surveys, turbine availability, and resulting cost of energy (dollars/MW-hour). Existing roads will be used to the extent feasible, although widening of existing roads and construction of new access roads will

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be necessary. The Project will also require a temporary construction area, a meteorological tower, up to 17 IdentiFlight units, and the installation of underground electrical lines connecting the turbines to a new substation that will be built adjacent to Pacific Gas and Electric Company's (PG&E) Tesla substation. Project activities include grubbing and grading of roads and turbine pads, staging areas, trench digging, pile driving, road construction, tree removal, and other activities. The Permittee is not proposing to construct an operations and maintenance (O&M) facility for the Project.

This ITP is limited to the construction phase of the Project which will be of a total duration of approximately 18-24 months. Excavation of approximately two WTG foundations is expected to be conducted in fall 2024 with full construction mobilization in 2025. The O&M Phase of the Project will be approximately 30 years and will be covered under ITP Number 2081-2024-045-03.

## **Wind Turbine Installation**

### Foundations

The type of turbine foundation used will depend on terrain, wind speeds, and wind turbine type. The size of the concrete cylinder and pad will be determined by wind turbine model and size and site-specific conditions (e.g., expected maximum wind speeds, soil characteristics). The foundation's weight must be sufficient to hold the wind turbine in place. The foundation type used will most likely be a gravity-type spread-footing foundation. The foundation will taper from the base upward to a pedestal of approximately 20 feet in diameter with a concrete top between six inches and one foot above the finished grade. The wind turbine will be bolted to the center of the pedestal. Each foundation will contain steel reinforcement, and the concrete volume of each foundation will be between 450 and 800 cubic yards. Each of the turbine models proposed will require a similarly sized foundation and similar engineering requirements. A small, graveled area approximately 30 feet wide will encircle each foundation to facilitate maintenance access. The total diameter of the final footprint for each turbine, including the graveled area, will be approximately 80 feet.

### Turbine Construction

Turbine construction will entail placement of a foundation, new tower, nacelle (i.e., cover housing), rotor, and transformer. At each turbine site, a level turbine pad approximately 450 feet in diameter will be graded to support the construction of tower foundations, receive turbine component deliveries, and enable the use of large cranes to lift the turbine components into place. The extent and shape of grading at each turbine pad will depend on local topography; however, each turbine pad will require approximately 1.5 acres of graded area to support the construction of foundations and installation of turbines.

A crane pad will be leveled and graded within each turbine pad. The crane pad—a flat, level, and compacted area near the foundation—will provide the base from which the crane will work to place the turbine. The crane pads will be prepared in accordance with turbine

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manufacturer and contractor specifications, but each will be approximately 50 by 100 feet with a compacted and graveled surface. Wind turbine construction activities will take place within the turbine pad area. Following construction, the turbine pad will be reclaimed; however, the 50 by 100 feet crane pad will remain in place.

The turbine towers, nacelles, and blades will be delivered to each turbine location in the order of assembly. Cranes will be brought to each site to lift and assemble the turbine components. First, the base section of the tower will be secured to the foundation using large bolts. The remaining tower sections then will be lifted with the crane and connected to the base section. After the nacelle and rotor have been delivered to the turbine site, the turbine blades will be bolted to the rotor hub, and the nacelle and rotor will be lifted by a crane and connected to the main shaft. Alternatively, the rotor hub and each blade may be lifted separately and mounted on the tower.

For most turbine sites, the cranes will be broken down into their smaller components, transported to the next turbine erection site, and reassembled. This process will be repeated for each individual turbine site. For several of the turbine sites, where topography is suitable, the cranes may be driven slowly between sites along access roads. No additional disturbance areas beyond those needed for other project components will be necessary for cranes.

Excess rock generated by foundation construction will be spread on existing roads and maintenance areas surrounding the turbines. Cut and fill at each turbine pad will be balanced onsite. Old foundations from the previous wind project onsite may be removed if they are within proposed construction areas and if removal will be necessary for the installation of new turbines; such removals will involve workers demolishing the foundations using jackhammers or similar tools. The material from old turbine foundations may be reused for road base or hauled offsite to the nearest landfill or disposal facility, likely the nearby Altamont Landfill.

### **Site Preparation and Access Roads**

Primary access to the Project area will be from Patterson Pass Road. Three access points are proposed: one to access the turbines located north of Patterson Pass Road and two to access the southern turbines. Improvements to Patterson Pass Road are not proposed, although some improvements to the Project area entrances may be required to accommodate the turning radii of equipment.

The turbine towers and blades that will be used for the Project are significantly longer than older turbine components and will require larger and longer trucks and cranes for transport and installation. These vehicles will need wider roads with shallower turns and gradients than are currently present in the Project area. Consequently, the existing road infrastructure will be upgraded to accommodate construction of the turbines. Road infrastructure upgrades will include grading, widening, and resurfacing some of the existing roads and some sections of new road will be constructed where no roads currently exist. Existing road widths vary from approximately 12 to 20 feet and will be widened to approximately 21 feet. Sections of new access roads will also be 21 feet wide. To accommodate turbine deliveries, portions of some

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existing roads will require modifications and grading work, specifically where the road gradient exceeds 16 percent and where inside turning radii are less than 195 feet.

The existing onsite drainage pattern will be maintained. Drainage will sheet flow along the sides of roads. Existing culverts will be inspected and replaced if necessary to accommodate the wider roads and other grading work. Existing culverts may need to be replaced with larger culverts or reinforced to provide adequate size and strength for construction vehicles.

### **Staging Areas**

Several temporary construction and staging areas will be used for construction trailers, employee parking, laydown, staging, and storage of materials, and potentially for a mobile concrete batch plant. The temporary construction and staging areas will be located east and south of Patterson Pass Road and west and southwest of the PG&E Tesla substation (Figure 3). The temporary construction staging areas will encompass approximately 8.75 acres. As noted above, turbine components will be delivered directly to turbine pads and will not be stored at the temporary construction and staging areas. Mobile construction trailers will be used to support workforce needs and site security and will also house a first-aid station, emergency shelter, and storage areas for the construction workforce. Parking areas will be located near the trailers. A mobile concrete batch plant may be utilized onsite to accommodate the large pour volumes. Sand, aggregate, water, and cement will be mixed to create concrete. Very small wash areas may be needed to clean equipment, but not enough water will be used to result in ponding. Water will be trucked in and will not be obtained from onsite water sources. The batch plant will encompass approximately 2.5 acres for operation within the temporary construction and staging areas.

Vegetation will be cleared within the temporary construction and staging areas, which will be graded level or mostly level. The surface of the temporary construction and staging areas will use native material, supplemented with gravel or soil stabilizer if needed, and appropriate erosion control devices (e.g., earth berm, silt fences, straw bales) will be installed to manage water runoff. Following completion of construction activities, the contractor will reclaim and restore the temporary construction and staging areas. The gravel surface will be removed, and the area will be contour graded (if necessary and if environmentally beneficial) to conform with the natural topography. Stockpiled topsoil will be replaced, and the areas will be stabilized and reseeded with an appropriate seed mix.

### **Meteorological Towers**

The Project will include construction of one new permanent, free-standing meteorological tower up to approximately 260 feet tall. The tower will be placed on a small concrete foundation. The meteorological tower will be used for power performance tests and forecasting during windfarm operation. The tower will be reached by a small access road and will be surrounded by a small, graveled area to facilitate maintenance access. Construction of the meteorological tower will result in a total of 0.09 acre of permanent impact and 0.23 acres of temporary impact.

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## Power Collection System

Each new wind turbine will be connected to the medium-voltage electrical collection system by means of a pad-mounted transformer. The power collection system will carry electricity generated by the turbines to a substation, where the voltage level of the collection system will be stepped up to that of the power grid. From the substation, electricity will be carried through a short, aboveground line connected to the PG&E Tesla substation, where the electricity will be distributed to the power grid. Construction of the power collection system will result in 21.72 acres of temporary disturbance. Each collection system component is discussed below.

### Collection Lines

Medium-voltage collection lines will collect power from each turbine for conveyance to the substation. Medium-voltage lines are normally up to 35 kilovolts. The new medium-voltage collection lines will be installed underground.

Installation of underground medium-voltage lines will be accomplished in most cases using a cut-and-cover method. A disturbance width of 20 feet is generally standard to allow for the trench excavation and equipment, but this width may vary depending on the topography and soil type. The topsoil is frequently separated from the subsurface soil for later replacement. A 3-foot-wide trench is then plowed using a special bulldozer attachment that will bury the line in the same pass in which it digs the trench. Once the collection lines are in place, the trench will be backfilled partially with subsurface soil. Typically, communication lines are then placed in the trench. The trench is subsequently backfilled with the remaining subsurface soil, compacted, and covered with the reserved topsoil.

To minimize surface disturbance within wetlands and other waters (e.g., streams), collection lines may be installed under these features using horizontal directional drilling (HDD) techniques, where feasible. HDD involves the use of a steered drilling head, which allows the bore machine to sit at ground level, bore down along on the collection line route, and direct the bore back up to the surface at a distant point. The bore machine uses a drilling fluid, typically a mixture of fine clay (such as bentonite) and fresh water. The clay and water mixture coats the wall of the borehole to help hold it open and to provide lubrication for the drill stem and conduit being installed. Excess drilling fluid is typically captured using a vacuum truck.

Collection lines will terminate adjacent to the substation, at which point they will rise onto one or two poles for the aboveground connection to the substation. Overhead poles will be designed in compliance with the latest recommendations of the Avian Power Line Interaction Committee.

Transformers

Transformers boost the voltage of the electricity produced by the turbines to the voltage of the collection system. Each turbine will have its own transformer, either mounted on a small pad adjacent to the turbine or within the tower.

Substation

The Project will require construction of a new substation immediately adjacent to the PG&E Tesla substation. The new substation will be connected via two intermediate structure (2 poles up to 130 to 150 feet in height). A single span from the new pole into an open bay inside the PG&E Tesla substation will complete the connection.

The main functions of a collector substation are to step up the voltage from the turbine collection lines to the transmission level and to provide fault protection. The basic elements of the substation facilities are a single main power transformer, a single outgoing high side circuit, and four medium voltage collection circuits. The substation will also include a control enclosure for all protective relaying and Supervisory Control and Data Acquisition equipment. The main outdoor electrical equipment and control enclosure will be installed on a concrete foundation, and the remaining area will be compacted and graveled. The entire facility will be fenced with 12-foot-high chain-link security fencing. Nighttime security lighting at the substation will include motion sensors and will be directed downward. The fenced footprint for the substation will result in approximately 0.66 acres of permanent impacts and 1.36 acres of temporary impacts.

**Safety Lighting**

Lighting for the Project will follow the Federal Aviation Administration (FAA) Obstruction Marking and Lighting Advisory Circular (AC70/7460-1L). Permanent nighttime safety lighting will consist of FAA L-864 aviation red flashing, strobe, or pulsed obstruction lights, which will be placed as high as possible on the turbine nacelle to be visible from any direction. Temporary lighting during construction may also be used, if necessary, to comply with FAA requirements.

**IdentiFlight Units**

The Project will include the installation of up to 17 IdentiFlight units at the Project site. Each unit will be located generally near a wind turbine and will include a tilt-up, ground mounted tower approximately 19.7 feet tall, a small cabinet with electronic controls, and an imaging head placed at the top of the tower. Towers will be freestanding and will not be guyed. Electrical power lines and fiberoptic lines will be trenched to each IdentiFlight unit to provide power and communications. Trenching will generally be located along access roads and other areas disturbed during construction of the Project. Each IdentiFlight unit will be fenced within an approximately 20 foot x 20 foot area (400 square feet) to keep livestock out.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> <sup>4</sup>
1. California tiger salamander ( <i>Ambystoma californiense</i> )	Threatened <sup>5</sup>
2. San Joaquin kit fox ( <i>Vulpes macrotis mutica</i> )	Threatened <sup>6</sup>
3. Western burrowing owl ( <i>Athene cunicularia hypugaea</i> )	Candidate <sup>7</sup>

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 expected to result in incidental take of individuals of the Covered Species include: initial site preparation; vehicle and foot traffic; storage and handling of construction materials and equipment on site; vegetation removal and management; access road construction, widening, repair, and resurfacing; heavy equipment operation; ground-disturbing activities including grading, blasting, excavation, trenching, augering, HDD, backfilling, and compacting; installation, and/or removal of structures and equipment; pond monitoring; and relocation activities prescribed by this ITP (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as: destruction of burrows and dens that the Covered Species inhabit, by being crushed or struck on the surface or in burrows, dens, and/or nests during vegetation removal, ground-disturbing activities, vehicle or other heavy equipment use, equipment storage and movement; being exposed to chemicals or other hazardous substances through dermal contact or direct ingestion (for example, through pesticide application, or storage or improper disposal of hazardous materials onsite); and, being entangled in erosion control materials and/or exclusion fencing. For the Covered Species that inhabit burrows, entombment may occur during ground-disturbing activities or vehicle and/or pedestrian passage.

Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so, when individuals of the Covered Species are relocated out of harm’s way, captured during pond monitoring, or

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

<sup>5</sup>See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).

<sup>6</sup>See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(6)(E).

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

salvaged as required by this ITP. Capture and relocation of Covered Species could, absent implementation of protective measures, result in mortality, injury, and/or disease transmission to Covered Species, by individuals involved in the capture, eviction, and/or relocation effort. The areas where authorized take of the Covered Species is expected to occur include: the 4,605-acre Project site encompassing the 19 wind turbines and Project facilities, and along access routes, and at mitigation site(s) (collectively, the Project Area).

The Project is expected to cause the permanent loss of 26.7 acres and the temporary loss of 185.3 acres of grassland habitat for the Covered Species, for a total of loss of 212 acres of grassland habitat for the Covered Species. All 212 acres of grassland habitat are considered habitat for the Covered Species. For California tiger salamander, these permanent and temporary impacts will be to upland habitat. For San Joaquin kit fox, these permanent and temporary impacts will be to foraging, denning and dispersal habitat. For western burrowing owl, these permanent and temporary impacts will be to nesting, overwintering, and foraging habitat. Direct impacts to western burrowing owl may also include eviction (passive relocation) of burrowing owls from their burrows specifically, obstructing burrow entrances resulting in disoriented behavior leading to vulnerability to nearby predators, and injury or mortality resulting from eviction. Covered Activities could also result in abandonment of nesting or overwintering sites and take of adult owls, eggs and/or young, and injury or mortality caused by vehicle strikes, collapse of burrows, entrapment within trenches, holes, or construction supplies.

Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, other changes to habitat structure and quality, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts may relate to habitat connectivity, changes in behavior and movements, decreased prey abundance, increased predation risk, increased competition for resources, and/or other factors that decrease survival, reproductive success, and/or recruitment of the Covered Species.

For California tiger salamanders, indirect impacts include but are not limited to: effects resulting from construction-related ground-disturbing activities that degrade nearby aquatic breeding habitat (for example, Pond K/P-010 and Pond N/P-008). Exposed soil surfaces left unvegetated have the potential to lead to sedimentation of adjacent aquatic habitat that may provide suitable breeding, foraging, and dispersal habitat for California tiger salamander. Project infrastructure (e.g., roads and turbine footings), if not maintained, could result in erosion and gulying that could deliver larger sediment loads to aquatic habitat downslope of these areas. Project activities also have the potential to result in degradation of water quality from runoff of petroleum-based products associated with equipment and vehicles used during construction. Exposure pathways could include inhalation, dermal contact, or direct ingestion. Exposure to contaminants can cause chronic or acute effects that could impair health and productivity and could lead to mortality. Carcinogenic substances could cause genetic damage resulting in sterility, reduced productivity, or reduced fitness of progeny.

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For all Covered Species, indirect impacts include, but are not limited to, increases in stress resulting from Project noise, artificial lighting, vibrations, capture and relocation, and increased human proximity; displacement from preferred habitat by structural changes and Project activities; changes in movement and reductions in habitat connectivity (for example, through introduction or lack of management of non-native grass species resulting in thatch build and inhibition of California tiger salamander breeding migration); increased competition for food and space; increased vulnerability to predation; reduction in prey availability through rodent control and/or pesticide application (including but not limited to rodenticide, insecticide, and herbicide); and long-term effects due to increased pollution.

**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, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for capture and relocation of Covered Species as authorized by this ITP. Take resulting from the O&M Phase of the Project will be covered under ITP Number 2081-2024-045-03.

**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.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mulqueeny Ranch Wind Repowering Project Final Subsequent Environmental Impact Report, certified by Alameda County Community Development Agency on October 7, 2021 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), and tiered off of the 2014 Altamont Pass Wind Resource Area Repowering Final Program Environmental Impact Report (SCH No.: 2010082063).
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed

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Alteration Agreement (Notification No. EPIMS-ALA-16122-R3) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.

4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Mulqueeny Ranch Wind Repowering Project Biological Opinion (Biological Opinion No. 2021-F-1614) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

**6. General Provisions:**

*Designated Representative and Biologist*

- 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 Biologists and Biological Monitors. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.
- 6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that

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does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.

Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.

**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 be provided to any new workers before they are authorized to work in the Project Area. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Additionally:

- (1) Permittee shall provide interpretation for non-English speaking workers;
- (2) The program shall present an overview of turbine operations, this ITP, and the current monitoring activities taking place onsite by the Designated Biologist(s);
- (3) The program shall include a brief explanation of the state and federal laws protecting the Covered Species and the other avian species, and the penalties for violating these laws including: California Endangered Species Act (Fish & G. Code, § 2050 et seq.); Fish and Game Code § 3503, 3503.5, 3511, and 3513; Migratory Bird Treaty Act (16 U.S.C. § 703); and Bald and Golden Eagle Protection Act (16 U.S.C. § 668);
- (4) Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing the above information for workers to carry in the Project Area;
- (5) Upon completion of the program, employees shall sign and date a form stating they attended the program and understand all protection measures and shall indicate on the form the date of the program and the date they started working in the Project Area;

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(6) The program shall be repeated a minimum of once annually for long-term and/or permanent employees working in the Project Area;

**6.5. Construction Monitoring Documentation.** The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. The Designated Biologist(s) shall maintain construction monitoring binders throughout the construction period. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.

*Waste and Erosion Control*

**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. Plastic water bottles and plastic bags should be removed daily.

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

**6.8. Erosion Control.** All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Permittee shall utilize erosion control measures throughout all phases of the Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. Erosion control measures shall not create a barrier to movement of California tiger salamander. No phase of the Project that may cause the introduction of sediments into a drainage, stream, or pond may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to startup of any phase of the Project that may result in sediment runoff to the stream. The Designated Biologist(s) shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately.

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

*Delineation of Habitat*

- 6.10. Delineation of Property Boundaries.** Before starting Covered Activities, along each part of the route or site in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 6.11. Vegetation Removal.** Disturbance or removal of vegetation shall be kept to the minimum necessary to complete project related activities. Vegetation marked for protection may only be trimmed with hand tools to the extent necessary to gain access to the work sites.
- 6.12. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.13. Additional Impacts to Habitat.** No take beyond the permanent loss of 26.7 acres of habitat for the Covered Species and temporary loss of 185.3 acres of habitat for the Covered Species authorized in this ITP during construction shall occur unless this ITP is amended by CDFW prior to additional impacts. The Permittee shall submit a request for such amendment with supporting information. Permittee may conduct Project construction work not involving ground disturbance such as installing WTGs on constructed concrete pads during the November 1 to April 14 wet season (Condition of Approval 8.7). However, if such work during the wet season results in areas previously considered temporarily-disturbed (for example, interior road shoulders) to be restored past October 31 of the year of the impact (Condition of Approval 6.15), then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (Condition of Approval 6.16.2).
- 6.14. 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.

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*Temporary Impacts and Restoration*

**6.15. Temporary Impact Criteria.** To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the impact unless CDFW approves an extension, and provided no additional ground disturbing activities shall occur until construction is completed; (2) if the impact area is within 2000 feet of an aquatic feature, all work shall be completed within this area and exclusion fencing shall be removed by October 31 of the same calendar year, allowing the Covered Species unrestricted access between upland and aquatic habitat; and (3) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (see ITP Condition of Approval 6.17).

**6.16. Vegetation Restoration.** Permittee shall prepare a Vegetation Restoration Plan (Restoration Plan) to restore Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions. Permittee shall submit the Restoration Plan to CDFW for approval within at least 15 days prior to the start of restoration activities. The Restoration Plan shall include results of soil analysis which will include ground-truthing soil conditions (e.g., type, texture, chemical composition and pH) by taking a soil sample and submitting the sample to an analytical lab. The Restoration Plan shall identify plant species damaged or removed during Project activities. The Restoration Plan shall include the following restoration standards:

**6.16.1. Reference Sites.** Prior to initiating ground disturbance, Permittee shall establish a representative number of transects within disturbed areas (“treatment”) which will each be associated with a reference (“control”) site (i.e., site within intact natural habitat that will be used as a model for restoration activities). Each treatment-control transect set shall be appropriately placed and numbered for identification purposes. The slope, aspect and hydrological conditions shall be similar for both the site to be restored and the reference site. To document existing plant communities, Permittee shall photograph the treatment and control sites during the spring (March to June) when most flowering plants are in bloom. Permittee shall also evaluate species composition at the reference site. Permittee shall use information collected at the reference site to guide restoration activities.

**6.16.2. Performance Standards.** To be considered a successful restoration site, Permittee shall meet the following performance standards:

**6.16.2.1.** Gravel shall be removed from restored areas;

**6.16.2.2.** To the maximum extent feasible, topsoil shall be salvaged from within on-site work areas prior to construction. Imported fill soils shall be limited to weed-free topsoil similar in texture, chemical composition



and pH to soils found at the reference site. At least two soil samples from each off-site fill source shall be submitted to a soil sampling lab for analysis. If Permittee chooses to import fill from an off-site location, CDFW and the property owner(s) shall be notified of the source of the fill at least 30 days in advance and shall be given the opportunity to inspect the fill and its source. If the fill source is deemed to be inappropriate (e.g., the type of soil is inappropriate or the soil would be sourced from a site with a major weed infestation), CDFW may require an alternative source of fill;

- 6.16.2.3.** Drivers might attempt to use adjacent shoulders for parking or to avoid ruts that form in roadways. Therefore, to protect restored habitat adjacent to permanent roads, permanent roads shall be kept in good repair, and barriers or fill shall be placed between the edge of the road and restored shoulders at the same grade to restrict vehicular access;
- 6.16.2.4.** Minor re-contouring may be conducted; however, Permittee shall limit grading, compaction, fill and all other earthmoving activities to the Project Area. Soils shall be protected from wind erosion using a biodegradable erosion control blanket or appropriate mulch cover (i.e., hydroseed or mulch) until vegetation is established. Seed shall be applied in the early fall, between October 15 and October 31. If feasible, seed shall be applied immediately prior to the first rain event;
- 6.16.2.5.** Permittee shall pre-designate each restoration area for establishment of a specific native vegetation community, based on slope, aspect, hydrological conditions and, if applicable, adjacent native vegetation. The seed mix for each restoration site shall be tailored to achieve the species composition of the pre-designated vegetation community. The distribution of vegetation communities within the restoration area shall be roughly proportionate to any native vegetation communities impacted. Following restoration, the species composition of each restoration site shall closely match that of the associated reference site;
- 6.16.2.6.** Seed mixes shall include only locally native species at a ratio appropriate to the site, with an emphasis on native bunchgrasses and other grassland species. Local native wildflower may also be included in the mix. Seed may be collected from within the Project Area. Additional seed shall be sourced from within 50 miles of the Project Area (i.e., original genetic material shall have been collected within this radius); however, the seed may be purchased from a seed farm outside of this area. For seeding and mulching exposed slopes, the

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seed blend may include one or two sterile non-native perennial grass species.

**6.16.2.7.** Permittee shall complete seeding as soon as possible, but no later than October 31 of the year of the impact. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.

**6.16.2.8.** No more than 15 percent (%) of the vegetation in each restoration site shall consist of species designated as high or moderate invasive plants in the California Invasive Plant Council's (Cal-IPC) *California Invasive Plant Inventory Database* (<http://www.cal-ipc.org/pafi/>). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner.

**6.16.3. Monitoring and Maintenance.** Permittee is responsible for monitoring and maintaining the restored areas for a period of five (5) years or until the Restoration Plan success criteria have been met, whichever is longer. For the first six months following completion of restoration activities, Permittee shall submit a brief monitoring report (10 pages or less, not including figures) detailing vegetation establishment, percent invasive plant cover, and other relevant observation regarding success of the restoration project to CDFW and then annually thereafter until performance standards have been met as outlined in Condition of Approval 6.16.2 or until otherwise instructed by CDFW.

If the survival and/or cover requirements are not meeting the performance standards outlined in Condition of Approval 6.16.2, Permittee is responsible for replacement planting, additional watering, weeding, invasive plant eradication or any other practice to achieve these requirements. Permittee shall continue to submit monthly restoration reports (see Condition of Approval 7.6) to CDFW until the standards have been met. Replacement plantings shall be monitored with the same survival and growth requirements for five (5) years after planting.

**6.17. Tracking Impacts.** Permittee shall track temporary impacts and notify CDFW if take authorization is likely to be exceeded in the coming month(s). Permittee shall submit an appropriately revised Project construction schedule (see Condition of Approval 6.21) within seven (7) days in order to ensure temporary impacts remain within the temporary impact criteria according to Condition of Approval 6.16. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.

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- 6.17.1.** If Permittee determines that the take authorization for temporary impacts has been exceeded, Permittee shall cease all new construction activities until appropriate take authorization has been provided if so directed in writing by CDFW.

### *Invasive Species*

- 6.18. Invasive Plant Species Control- Baseline.** Permittee shall ensure that pre-Project baseline conditions are established for documenting type, location and general abundance of invasive plant species within the Project Area. These baseline conditions will be used for post-construction monitoring of restored areas (see Condition of Approval 6.21). The Designated Biologist(s) qualified to do botanical surveys and approved by CDFW shall submit the sampling methodology to CDFW at least 30 days prior to conducting baseline surveys. The baseline survey shall include both a qualitative (windshield and pedestrian) and quantitative assessment of target species within the Project Area.

Permittee shall ensure that baseline sampling at control transects is conducted prior to the start of Project construction activities. Sampling shall be conducted during the appropriate season for detecting invasive plant species and shall be based on an appropriate number of monitoring plots (treatment and control sets) approved by CDFW. The Designated Biologist(s) shall conduct sampling for target invasive plant species ranked by the Cal-IPC's Inventory as High or Moderate (<http://www.cal-ipc.org/paf/>).

- 6.19. Prevention of Spread of Invasive Species.** Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: <http://www.cal-ipc.org/ip/prevention/index.php> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <http://www.protectyourwaters.net/>.

- 6.20. Invasive Plant Species Control Plan.** Permittee shall prepare an Invasive Plant Species Control Plan (Invasive Plant Plan) to effectively control and monitor invasive plants within Covered Species habitat that will be temporarily disturbed and subsequently restored. The Invasive Plant Plan shall include the results of baseline surveys (see Condition of Approval 6.19). Permittee shall submit the Invasive Plant Plan to CDFW for approval within 30 days prior to the start of restoration activities. The Designated Biologist shall oversee the management of invasives within the Project Area and may use control methods such as hand removal, mechanical removal and/or focused herbicide application within seeding and planting areas following vegetation restoration. The Designated Biologist shall ensure that invasive plant removal does not result in damage to adjacent Covered Species habitat or to root systems of installed plants. Herbicides may be used if hand or mechanical

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removal of invasives is unsuccessful or infeasible. Herbicides shall not be used within or near aquatic habitat and shall only be applied by an applicator holding a valid license issued by the California Department of Pesticide Regulation.

*General Construction*

- 6.21. Construction Schedule.** Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. The construction schedule shall identify the approximate beginning and completion date for each major Project activity within the construction phase. Permittee shall notify CDFW of any major changes in the construction schedule at least seven days prior to the change being implemented.
- 6.22. Emergency Response Plan.** Before the onset of work, Permittee shall prepare an Emergency Response Plan describing actions that will be taken in case of a fire or other natural disaster or in case of a human-generated disaster, such as a spill or release of hazardous materials. An emergency phone tree, including contact information for all appropriate disaster management agencies and natural resources agencies, shall be included in the plan and should be posted on site in a visible location. The Emergency Response Plan shall specify containment procedures for hazardous substances, with emphasis on avoidance of the aquatic features at the Project site.
- 6.23. 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.
- 6.24. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 6.25. 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 work areas. (See Condition of Approval 6.11.)
- 6.26. Night-time Activities and Artificial Lighting.** To the maximum extent feasible, Permittee shall ensure that night-time work is avoided. If night-time work cannot be avoided, it will be limited in extent, duration and brightness to the maximum extent feasible. No earthmoving activities or overland travel shall take place during night-

time work. All night-time work and construction-related traffic shall be suspended during rain events. Lighting shall be faced downward and shall only be utilized in the immediate workspace. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.

- 6.27. Firearms and Dogs.** Permittee shall prohibit firearms from the Project Area and Project site access routes during Covered Activities, except those that are in the possession of authorized security personnel or local, state, or federal law enforcement officials. Permittee shall prohibit domestic dogs from the Project Area and Project site access routes during Covered Activities, except those that are in the possession of authorized security personnel or local, state, or federal law enforcement officials, or professional dog handlers for use in Project post-construction fatality monitoring.
- 6.28. Wildfire Prevention.** If the Project site is within a high or very high Fire Hazard Severity Zone (refer to <https://egis.fire.ca.gov/FHSZ/>) or the risk of fire danger is high based on 7-day predictions from National Oceanic and Atmospheric Administration forecasts, Permittee shall mow access pathways, staging areas and work areas before allowing heavy equipment and vehicles to access the site. Non-living vegetative debris shall be cleared from around the immediate work footprint, and basic fire suppression supplies shall be kept on site at all times. Disking and/or tilling are not permitted for fire prevention without prior written permission from CDFW.
- 6.29. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

**7. Monitoring, Notification and Reporting Provisions:**

- 7.1. Notification Before Commencement.** The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.2. Notification of Non-compliance.** The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.

- 7.3. Compliance Monitoring.** The Designated Biologist(s) shall be on-site full-time daily when Covered Activities occur. The Designated Biologist(s) shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist(s) shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist(s) shall conduct compliance inspections a minimum of once per week during periods of inactivity, or daily as long as exclusion fencing is in place.
- 7.4. Photo Monitoring.** No less than 10 photo monitoring stations shall be established to provide representative views of Project, construction, and restoration activities. Photo monitoring station results shall contribute to the assessment of temporary impacts and restoration work by CDFW; therefore, Permittee should ensure that photo monitoring stations numbers and locations are sufficient to document temporary impacts and restoration success. Photo monitoring shall be done as follows:
- 7.4.1.** Stations should be located in areas that allow for unobstructed views and a field of vision of approximately 2,000 feet.
  - 7.4.2.** At least one photograph shall be taken at all stations prior to ground-breaking activities, and each month thereafter until construction and initial restoration are complete. Photo documentation of restoration success shall occur every three months following initial restoration until restoration success criteria are reached.
  - 7.4.3.** Photo monitoring station locations shall be provided to CDFW in a geographic format with the coordinate system identified.
  - 7.4.4.** If CDFW or the Designated Biologist(s) determines that additional monitoring stations are necessary, the locations shall be added to the inventory of photo monitoring stations.
  - 7.4.5.** During each photo monitoring cycle, all stations shall be visited within two days.
- 7.5. Pond Monitoring.** Permittee shall submit a Pond Monitoring Plan to CDFW for approval within a minimum of 15 days prior to the start of Project construction. The Pond Monitoring Plan shall include a sampling methodology to collect both baseline and post-construction hydrologic data in order to evaluate the impacts of road construction and installation of culverts on pond hydrology. Monitoring shall be conducted in all ponds that could be indirectly impacted by Covered Activities for a

minimum of three years (three California tiger salamander breeding seasons) post-construction. The sampling methodology shall include hydrologic parameters such as pond depth, hydroperiod, flow regime, and water quality.

- 7.6. Monthly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.2, 7.3, and 7.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure.

Monthly Compliance Reports shall detail approximate Project impacts in acres, separated into permanent and temporary impacts. Temporary impacts shall be categorized as defined in Condition of Approval 6.15. The temporary impacts category shall: (1) identify and describe the temporary impacts to date; (2) describe the location, acres, and type of restoration actions that have occurred; and (3) include all monitoring information required by the Restoration Plan described in Conditions of Approval 6.16 and 6.17.

Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Brenda Blinn ([Brenda.Blinn@wildlife.ca.gov](mailto:Brenda.Blinn@wildlife.ca.gov)) and Headquarters CESA Program email is [CESA@wildlife.ca.gov](mailto: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.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.6; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 7.8. Final Construction Phase Report.** No later than 45 days after completion of all initial construction activities, including all required monitoring, Permittee shall provide

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CDFW with a Final Construction Phase Report. The Designated Biologist shall prepare the Final Construction Phase Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs during the construction phase; (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 during construction; (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.

**7.9. Final Mitigation Report.** No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

**7.10. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within five calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. The Designated Biologist shall submit the observation to notification along with GPS coordinates to CDFW's Regional Representative by email at [Brenda.Blinn@wildlife.ca.gov](mailto:Brenda.Blinn@wildlife.ca.gov) within 24 hours.

**7.11. Notification of Take or Injury.** Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW'S Regional Representative by email at [Brenda.Blinn@wildlife.ca.gov](mailto:Brenda.Blinn@wildlife.ca.gov) and by phone at (707) 339-0334. If an individual Covered Species is found injured, Permittee shall immediately transport the injured individual to the closest wildlife rehabilitation center equipped with permits to receive and treat the species (see also Condition of Approval 8.5 for California tiger salamander). The initial notification to CDFW shall include information regarding the

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location, species, number of animals taken or injured, the ITP number, nearest turbine number, and, if injured, the facility to which the individual was transported. Following initial notification, Permittee shall send the CDFW Regional Representative a written report within two calendar days. The report shall include the common and scientific name, date and time of the finding or incident, geo-referenced location of the animal or carcass (Project name, County, GPS location, GPS error, and GPS datum), sex (if known), life stage/age class (if known), observer name and contact information, ITP number, nearest turbine number and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information. The Designated Biologist or Designated Representative shall provide weekly updates on the status of the rehabilitation facility's treatment of the individual.

- 7.11.1. California tiger salamander.** If a California tiger salamander carcass is found, Permittee shall remove a ½-inch portion of the tail tip and place in a labeled tissue tube with 95 percent ethanol. If salvageable, Permittee shall immediately place the carcass in a clean, sealed, plastic bag with specimen label, and temporarily store in a freezer. The specimen label shall be attached directly to the specimen (tied to carcass) and shall include the common and scientific name, date and time of collection, geo-referenced location (Project name, County, GPS location, GPS error, and GPS datum), circumstances surrounding death (if known), sex (if known), life stage/age class (if known), collector name and contact information, and ITP number. If the specimen is observed on a date prior to collection, the specimen label shall include also the detection date and time.

Permittee shall deliver tail specimen to:

CDFW Bay Delta Region  
Attention: Brenda Blinn  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534

Permittee shall deliver remaining carcass to the following address within two calendar days of the discovery:

CDFW Wildlife Health Laboratory  
Attention: Deana Clifford  
1701 Nimbus Road, Suite D  
Rancho Cordova, CA 95670

- 7.11.2. Western Burrowing Owl Mortality, Injury and Nest Abandonment.** If a burrowing owl carcass is found, Permittee shall notify the CDFW Regional Representative and Krysta Rogers ([Krysta.Rogers@wildlife.ca.gov](mailto:Krysta.Rogers@wildlife.ca.gov)) at the CDFW Wildlife Health Laboratory, via email within 24 hours of the carcass discovery. The Designated Biologist or Designated Representative shall collect the carcass and place it in a

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clean, sealed, plastic bag with a specimen label, and temporarily store in a freezer. The Designated Biologist or Designated Representative shall obtain packing and transportation or shipping instructions from the Wildlife Health Laboratory, and deliver the specimen within 60 days of discovery to the address below:

CDFW Wildlife Health Laboratory  
 Avian Investigations  
 Attention: Krysta Rogers  
 1701 Nimbus Road, Suite D  
 Rancho Cordova, CA 95670

If a burrowing owl is found injured, the Designated Biologist shall immediately notify the CDFW Regional Representative at [Brenda.Blinn@wildlife.ca.gov](mailto:Brenda.Blinn@wildlife.ca.gov) and by phone at (707) 339-0334 and shall transport the injured individual to a CDFW-approved wildlife rehabilitation center or veterinary facility.

The initial notification to CDFW shall include information regarding the location, species, number of animals taken or injured, and if injured, the facility to which the individual was transported. Following initial notification, Permittee shall send the CDFW Regional Representative a written report within two calendar days. The report shall include the common and scientific name, date and time of the finding or incident, geo-referenced location of the animal or carcass (Project name, County, GPS location, and GPS datum), sex (if known), life stage/age class (if known), observer name and contact information, ITP number, a photograph (if possible), explanation as to cause of take or injury, and any other pertinent information. The Designated Biologist or Designated Representative shall provide weekly updates on the status of the rehabilitation facility's treatment of the individual.

If nestling(s) or egg(s) are abandoned, the Designated Biologist shall recover the nestling(s) and or egg(s) and immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall bear any cost associated with care and recovery of any injured burrowing owl adults, nestling(s) or egg(s), and hacking (controlled release of captive reared young), and follow the notification and reporting requirements described above.

- 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:

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*Multi-Species Protective Measures*

- 8.1. Inspection of Pipes and Culverts. All construction pipes, culverts, or similar structures with a diameter of 2 inches or greater that are stored in the Project Area for one or more overnight periods shall be either securely capped prior to storage or thoroughly inspected by the Designated Biologist(s) and/or the construction foreman/manager for the Covered Species or other animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a California tiger salamander is found, it may be relocated as described in Condition of Approval 8.20. If a San Joaquin kit fox or western burrowing owl is found, it shall not be handled but shall be allowed to passively move away from the work area (see Condition 8.24).
- 8.2. Inspection of Reclaimed Pads Prior to Removal. To-be-reclaimed turbine pad areas shall be inspected by the Designated Biologist no more than two weeks prior to removal of the pad to determine the presence and extent of any burrow complexes. Survey results, including photographs of burrow complexes, shall be provided to CDFW at least one week prior to initiation of reclamation of the pads. If burrow complexes are found around one of these turbine pads, Permittee shall consult with the CDFW Regional Representative before conducting removal and reclamation activities. Importation of fill and re-contouring activities are subject to CDFW approval if burrow complexes are present.
- 8.3. Excavation of Refuge Habitat. All excavation of potential refuge features, including small-mammal burrows, individual rocks and rock piles, and other accessible features with an entrance diameter of greater than or equal to 2 inches, as well as gopher digging piles and mounds, shall be carried out by hand by the Designated Biologist. Tool use for excavation shall be limited to a hand trowel or garden spade. Burrows shall be excavated to the terminus of each branch or until the burrow diameter is less than 1 inch.
- 8.4. Use of Rodenticide and Poison. At no time during the life of the Project shall rodenticides or other poisons used in the control of burrowing animals be used by Permittee in the Project Area or within mitigation lands.

*California Tiger Salamander*

- 8.5. Covered Species Handling and Injury. California tiger salamanders shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) (Attachment 3). If an injured Covered Species is found during the Project term, the individual shall be evaluated by the Lead Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured salamander shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has not responded

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within 15 minutes of initial attempts then the following steps shall be taken by the Designated Biologist:

- 8.5.1.** If the injury is minor or healing and the salamander is likely to survive, the salamander shall be released immediately in accordance with the Condition of Approval 8.20.
  - 8.5.2.** If it is determined that the Covered Species has major or serious injuries as a result of Project-related activities the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by the CDFW and U.S. Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed, and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.12.
- 8.6. Seasonal Work Window.** Permittee shall limit ground-disturbing Covered Activities involving construction and heavy equipment use (such as excavation, road construction, grading, trenching, contouring and culvert installation) to the following time periods (“seasonal work windows”) until the expiration of this ITP:
- 8.6.1.** Upland Habitat: Between April 15 and October 31 (Dry Season);
  - 8.6.2.** Aquatic Habitat: Between June 15 and October 31. Covered Activities may begin prior to June 15 if the stream in which work will occur has been dry for a minimum of 30 days prior to initiating work.
- 8.7. Seasonal Work Window Extension.** Permittee shall adhere to the seasonal work windows required in Condition of Approval 8.6 unless an expanded work window is approved by CDFW’s Regional Representative. Permittee shall submit any requests for extensions at least 14 days prior to the desired date of construction or 14 days prior to the expiration of the seasonal work window. Any work for WTG installation conducted during the wet season shall be limited to construction work not involving ground disturbance and vehicles using completed main and interior gravel roads to gain access to the turbine pads. If such work during the wet season results in areas previously considered temporarily-disturbed (for example, crane pads) to be restored past December 15 of the year of the impact, then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (see Conditions of Approval 6.15 and 6.16) and an amendment to the ITP may be required. If work is approved by CDFW outside of the seasonal work windows required in Condition of Approval 8.6, the following conditions shall apply:

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- 8.7.1.** Turbine pad area or any other work site located within 0.5 miles of Covered Species aquatic habitat, including where equipment will be stored overnight, shall be completely fenced with wildlife exclusion fencing per Condition of Approval 8.11. All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads.
- 8.7.2.** All work and vehicle travel shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.
- 8.7.3.** All steep-walled holes or trenches more than 6 inches deep shall be covered overnight with boards or metal plates placed flush to the ground.
- 8.7.4.** Erosion control such as straw wattles or silt fencing shall not be placed where they create a barrier to Covered Species movement between upland and aquatic habitat.
- 8.8. Dry Season Work Restriction.** During the Dry Season of April 15 to October 31 of each year until the expiration of this ITP, Permittee shall limit Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and contouring) to periods of low rainfall (less than 0.10 inches per 24-hour period). If rain exceeds 0.10 inches during a 24-hour period, work shall cease. Construction may resume 24 hours after the rain ceases when there is a less than a 60 percent (%) chance of precipitation in the 24-hour forecast, and humidity, as measured locally on-site under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept on-site and subject to inspection.
- 8.9. Daily Work Window.** The California tiger salamander active season is defined as the period of time during which California tiger salamanders are above ground. California tiger salamander adults migrate to and from breeding ponds during the wet season. California tiger salamander metamorphs and juveniles migrate away from the ponds during the late spring, summer, and fall depending on pond hydroperiod and other variables. During the adult California tiger salamander migration/active season from November 1 to June 15, all Project earth-disturbing activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise with the exception of deliveries that cannot feasibly be made during the day due to size of delivery, traffic, or other constraints. Such deliveries shall include access within the Project Area via established roadways and unloading within existing graded areas. Limited exceptions to this schedule may occur if necessary to construct WTG towers or pour concrete foundations. Except when necessary for construction, or driver/pedestrian safety, lighting of the Project Area by artificial lighting during nighttime hours shall be minimized to the maximum extent practicable. Permittee shall use

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sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area where the project is located. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.

**8.10. Pre-Activity Surveys.** The Designated Biologist shall inspect all ruts and holes near root structures, foundations, abutments, etc. for California tiger salamander immediately prior to and during excavation or removal. A Designated biologist shall survey the open areas adjacent to ongoing construction. Multiple biologists may be necessary to survey the area appropriately. If a California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location (e.g. mouth of ground-squirrel burrow outside of the temporary barrier) per Condition of Approval 8.20 and monitor it until it is determined that it is not imperiled by predators or other dangers.

**8.11. Exclusion Fencing.** If Covered Activities will occur during California tiger salamander migration periods, exclusion fencing shall be constructed in strategic locations and in and around all active work areas and staging areas within 2000 feet of all aquatic features. The barrier shall be designed to allow the California tiger salamander to leave the Project Area using a one-way funnel or other method approved by CDFW. Refuge opportunities, such as coverboards and/or pitfall traps, shall be placed along the fence where appropriate. Permittee shall coordinate with CDFW and USFWS on a fencing plan and shall submit the design to CDFW for approval no less than 30 days prior to the proposed start of Covered Activities. Exclusion fencing shall be installed prior to the start of Covered Activities in each area and placed within 10 feet of the edge of work areas or other appropriate distance in consultation with, and approved by, CDFW and USFWS. Permittee shall maintain the barrier throughout all construction activities. The Designated Biologist shall survey the area prior to installation of the fencing. The interior and exterior of the exclusion fencing shall be surveyed by the Designated Biologist at least once daily before 0900 each day to ensure that no California tiger salamanders are trapped against the fencing or under coverboards. Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. The Designated Biologist shall relocate any California tiger salamander found along the fence. The Permittee shall avoid damage to small mammal burrows to the maximum extent possible during installation of the exclusion fencing.

The barrier shall remain in place until the Permittee completes all Covered Activities and all construction equipment has been removed from the active work areas.

For Covered Activities involving excavation of a limited number of turbine foundations (approximately two) expected to be conducted in fall 2024, the fencing plan requirements shall be limited to installation of exclusion fencing, including cattle exclusion fencing, surrounding the excavated foundation holes, installation of cover boards and monitoring of the exclusion fence by the Designated Biologist prior to and

after significant rain events. The Permittee shall ensure that the fence is functioning to prevent Covered Species from entering the excavations. The Permittee shall repair the fence as needed.

**8.12. Delineation of Burrow Complexes.** The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Conditions of Approval 8.10 and 8.13) and within 100 feet of the Project footprint with posted signs, posting stakes, flags, and/or rope or cord. Signs, stakes, flags, and/or rope shall be clearly distinguishable from markings used to delineate work areas.

**8.13. Pre-Construction Burrow Identification.** The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of new roads, electrical collection lines, or turbine pads with flagging no-less-than five days prior to earthmoving activities in those areas. All burrows shall be avoided to the maximum extent practicable during earthmoving activities.

**8.14. Barriers to Movement.** Permittee shall construct roadways that are within 1.3 miles of known or potential California tiger salamander breeding sites such that there are no steep curbs, berms, straw wattles, or dikes that could prevent California tiger salamander from crossing or exiting the roadway. If curbs/berms/straw wattles are necessary for safety and/or surface runoff, Permittee shall design and construct them to allow California tiger salamander to walk over them. If steep dikes are required, Permittee shall design and construct them to include over-side drains or curb/dike breaks spaced at intervals of 16.4 to 32.8 feet to allow California tiger salamander passage.

**8.15. Trenching and Mowing.** Prior to trenching, Permittee shall mow vegetation along the fence line to the width necessary to accommodate the trenching equipment and a walking buffer, to facilitate locating and avoiding burrows and California tiger salamanders that may be present within the Project area. The Designated Biologist will perform clearance surveys (refer to Condition of Approval 8.10) within the area that the Permittee will clear immediately prior to mowing. Permittee shall not disk or till vegetation.

**8.16. Open Trenches.** To prevent inadvertent entrapment of California tiger salamander during construction, the Designated Biologist shall check all excavated open holes, sumps and trenches for California tiger salamander no later than 0900 each day for trapped animals. If a California tiger salamander is trapped in these features, the Designated Biologist shall remove and relocate the animal(s) to a safe location within suitable habitat (see Condition of Approval 8.20) prior to the start of work activities at that site. At the close of each working day, the Designated Biologist shall ensure all excavated, steep-walled holes or trenches more than 6 inches deep are provided with one or more escape ramps constructed of earthen fill or wooden planks with a slope of 3:1 (run: rise). Before Permittee fills trenches or holes, the Designated Biologist shall thoroughly inspect them for trapped California tiger salamander. If a

California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the individual as required by Condition of Approval 8.20.

**8.17. Augering and Excavation.** The Designated Biologist shall survey all augering and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.

**8.18. Soil Stockpiles.** Permittee shall place soil stockpiles where soil will not pass into potential California tiger salamander breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 *et seq.* Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.

**8.19. California Tiger Salamander Checks.** Before the start of work each morning, the Designated Biologist shall check for California tiger salamander individuals under all vehicles, equipment, materials, or otherwise suitable locations for salamanders to hide. Workers shall inspect under vehicles and equipment for California tiger salamander before the vehicles and equipment are moved. If a California tiger salamander is present, the worker shall notify the Designated Biologist. The Designated Biologist shall follow initial grading equipment to look for California tiger salamander. All ruts and holes near root structures, foundations, abutments, etc., shall be inspected for California tiger salamander prior to and during excavation or removal. If a California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the individual as required by Condition of Approval 8.20.

**8.20. Relocation<sup>8</sup> of California Tiger Salamander.** Permittee shall develop a Relocation Plan for California tiger salamander and submit it to CDFW for approval prior to ground-disturbing activities occurring within 1.3 miles of known California tiger salamander breeding pools or in suitable upland habitat. Permittee shall quantify the amount, relative location, and quality of suitable habitat (e.g., breeding, upland, and dispersal habitat) including invasive and non-native species present, available upland burrows, and potential barriers for movement. The Designated Biologist shall relocate any California tiger salamander individuals within the Project Area impacted by Covered Activities to an active rodent burrow system or appropriate breeding pond located no more than 250 feet outside of the work area and described in the Relocation Plan, unless otherwise approved in advance by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see

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<sup>8</sup> Relocation refers to the transport and release of a plant or animal immediately outside of an area of disturbance. The distance that the plant or animal is to be moved is limited to the minimum distance needed to promote the safety of the individual. Relocation of species beyond the immediate vicinity of capture (i.e., from one site to another) is not authorized as doing so could increase intra-species competition, attract predators, or spread disease.



Condition of Approval 8.5). The Designated Biologist shall contact CDFW's Regional Representative within 24 hours of any relocation incidents. All relocations shall be reported in the monthly and final compliance report. At a minimum, the report of the relocation shall include the time, location, and circumstances that led to the California tiger salamander being discovered; the location where the California tiger salamander was relocated; and photographs of the animal including the ventral and lateral as well as the dorsal surfaces. All locations shall be geo-referenced and detailed in text.

**8.21. Decontamination of Clothing and Equipment.** Any equipment that enters the water during construction shall be decontaminated before and after construction using USFWS guidance to prevent the spread of aquatic diseases and invasive aquatic species.<sup>9</sup> All equipment parts that may come into contact with the water, such as vehicle treads, buckets, *etc.*, shall be decontaminated. Repeat decontamination is required only if the equipment is removed from the site, used within a different aquatic feature, and returned to the Project Area. Decontamination shall take place in an upland location, and any chemicals used during decontamination shall be prevented from entering aquatic features. Workers shall also decontaminate waders, boots, and other clothing that comes in direct contact with the water.

**8.22. Notification of Non-Native Tiger Salamanders or Hybrids.** The Designated Biologist shall immediately notify CDFW if a non-native barred tiger salamander (*Ambystoma tigrinum mavortium*) or California tiger salamander/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative. CDFW. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 8.5). Permittee shall consult CDFW to determine measures to address non-native or hybrid populations.

**8.23. Invasive Species.** Any bullfrogs (*Lithobates catesbeianus*) encountered during construction or monitoring shall be permanently removed from the wild. Pursuant to Fish and Game Code, section 6854, it is unlawful to take bullfrogs using firearms of any caliber or type. CDFW may issue a permit to take and dispose of frogs under such limitations as the commission may prescribe (Fish and Game Code, § 6854). Permittee may not introduce predatory fishes (including but not limited to largemouth bass, redear sunfish, bluegill, catfish, mosquitofish, and fathead minnows) or amphibians (including but not limited to bullfrogs, barred tiger salamanders, and Arizona tiger salamanders).

<sup>9</sup> Refer to: U.S. Fish and Wildlife Service, August 2005. *Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog*, Appendix B - Recommended Equipment Decontamination Procedures.

## *San Joaquin Kit Fox*

- 8.24. Standard Protective Guidance for San Joaquin Kit Fox.** At no time shall Permittee or its representatives capture, pursue, or otherwise attempt to handle a San Joaquin kit fox. Permittee shall follow USFWS' *Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance* (USFWS 2011).
- 8.25. Pre-Construction Surveys, San Joaquin Kit Fox.** Within 15 days prior to any habitat modification, the Designated Biologist shall conduct transect surveys to detect potential San Joaquin kit fox dens. The Designated Biologist shall conduct walking transects such that 100 percent visual coverage of the Project Area is achieved. Transect width shall be adjusted based on vegetation height, topography, *etc.*, to facilitate the detection of dens and other sign. Walking transect surveys shall be used to detect and map known dens, potential dens, and sign (tracks, scat, prey remains). Detection dogs may be used if practicable. Potential San Joaquin kit fox scat shall be collected and labeled based on mapped location. Potential dens shall be considered to be any subterranean hole on the site that has entrances of appropriate dimensions for which available evidence is insufficient to conclude that it is being used or has been used by a San Joaquin kit fox.
- 8.26. Construction Buffers for San Joaquin Kit Fox Dens.** If a potential San Joaquin kit fox den is discovered, or a fox is found in an "atypical" den such as a pipe or culvert, Permittee or Designated Biologist shall establish a 50-foot buffer using flagging. If a known kit fox den (one that shows evidence of current use or is known to have been used in the past) is discovered, a buffer of at least 100 feet shall be established using fencing. If a natal den is discovered, it shall be fenced and avoided in a buffer with a diameter of at least 200 feet. Permittee or Designated Biologist shall notify USFWS and CDFW for all of the above except potential kit fox dens. Buffer zones shall be considered environmentally sensitive areas, and entry shall be restricted.
- 8.27. Protection of San Joaquin Kit Fox Natal Dens.** Permittee shall not excavate natal dens for San Joaquin kit fox until the pups and adults have vacated and only after receiving written permission from USFWS and CDFW. Permittee may destroy known dens only after three days of monitoring with tracking medium or an infra-red camera has determined that a San Joaquin kit fox is not present.
- 8.28. Destruction/Collapse of Potential San Joaquin Kit Fox Dens.** Destruction of any potential San Joaquin kit fox dens shall be accomplished by the Designated Biologist by careful excavation until it is certain that no San Joaquin kit foxes are inside. The den should be fully excavated, filled with dirt, and compacted to ensure that San Joaquin kit foxes cannot re-enter or use the den during the construction period. If at any point during excavation a San Joaquin kit fox or kit fox signs is discovered inside the den, excavation shall cease immediately and monitoring of the den as described in ITP Condition of Approval 8.27 shall be resumed. Destruction of the den shall only

be completed when, in the judgment of the Designated Biologist, the animal has escaped from or otherwise vacated the partially destroyed den.

### *Western Burrowing Owl*

- 8.29. Protocol-level Surveys.** Prior to starting construction-related Covered Activities, the Designated Biologist shall complete protocol-level overwintering and nesting surveys following the methodology described in the Staff Report on Burrowing Owl Mitigation, Appendix D (2012), found at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>. Surveys shall include a minimum of four visits and shall consist of walking line transects spaced 23 feet to 66 feet (7 to 20 meters) apart, or as close to this method as the terrain allows. The four survey visits shall include at least one survey between February 15 and April 15, and a minimum of three surveys at least three weeks apart between April 15 and July 15 with at least one survey after June 15. If construction is scheduled to commence by April 15, 2025 (refer to Condition of Approval 8.6) then the Designated Biologist shall conduct a minimum of one survey prior to the start of construction. If construction is scheduled to commence after April 15, 2025, the Designated Biologist shall conduct a sufficient number of surveys based on the date of the start of construction in consultation with the CDFW Representative. The Designated Biologist shall submit the results of the survey to CDFW at least 15 days prior to beginning construction-related Covered Activities or other timeframe approved by CDFW, or within 24 hours prior to beginning construction-related Covered Activities if surveys overlap with the pre-construction avoidance surveys (refer to Condition of Approval 8.30).
- 8.30. Burrow Complex Map.** Within 15 days prior to starting construction-related Covered Activities, or other timeframe approved by CDFW, the Designated Biologist shall provide to CDFW a KMZ map of the burrowing owl burrow complex(es) and atypical burrows (e.g. culverts, buckled concrete, etc.). The map shall be at a scale of 1:24,000 or finer to show details and shall show locations of all burrowing owl sightings and labeled if sightings were potential burrows, occupied burrows, satellite burrows, areas of concentrated burrows, and burrowing owl sign. Locations documented by use of GPS coordinates must be collected in NAD83 datum. The map shall include an outline of the Project Area. The map shall include a title, north arrow, scale bar, and legend.
- 8.31. Pre-construction Avoidance Surveys.** No more than 14 days prior to beginning construction-related Covered Activities, the Designated Biologist shall conduct at least two surveys using the methods described in the CDFW Staff Report on Burrowing Owl Mitigation, Appendix D (2012) or other appropriate method if agreed upon in writing by CDFW, at least seven days apart, with the final survey conducted no more than 48 hours prior to beginning Covered Activities. Pre-construction surveys may be conducted as part of the protocol-level surveys described in Condition of Approval 8.29. The Designated Biologist shall submit the results of the

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survey to CDFW within 24 hours prior to beginning Covered Activities. If changes in burrowing owl presence are detected (e.g., burrowing owl have moved onsite or changed burrow use), the Designated Biologist shall contact the CDFW Representative by phone or email within 24 hours of the observation to consult on appropriate measures to avoid or minimize impacts of the Project to burrowing owl. If a lapse in project-related work of 14 calendar days or longer occurs, Permittee shall contact the CDFW Representative by phone or email and may be required to conduct additional surveys before work may be reinitiated.

**8.32. Covered Activity Seasonal Restrictions.** Permittee shall not conduct Covered Activities during the breeding season, beginning February 1 to August 31, within 656 feet (200 meters) of any occupied burrow complexes until young have dispersed and are fledged, independently foraging, and no longer using the burrows or burrow complex, and/or the adults are no longer nesting. This buffer may be reduced pursuant to Conditions of Approval 8.33 and 8.34.

**8.33. No-Disturbance Buffers.** Permittee shall clearly delineate a no-disturbance buffer of 656 feet (200 meters) or more for high-disturbance activities, including but not limited to installation of turbines, use of heavy equipment such as cranes, and similar activities, around all known occupied or potential burrowing owl nesting, roosting, and satellite burrows or the entire burrow complex within and adjacent to 656 feet (200 meters) of the Project Area with posted markers demarking the area to avoid, using stakes, flags, and/or rope or cord to minimize the disturbance of burrowing owl habitat. The nesting season for western burrowing owl is defined as February 1 to August 31. During the non-nesting season from September 1 to January 31, Permittee shall delineate a no-disturbance buffer of at least 164 feet (50 meters) around all known occupied or potential burrowing owl burrows. The Designated Biologist may reduce the buffer distances based on the behavior of the owls pursuant to Condition of Approval 8.34 and with prior approval by the CDFW Representative. The Designated Biologist may also reduce the buffer distances for low to moderate-impact activities, such as vehicle traffic and use of staging areas. CDFW approval for reduced buffers shall be determined by construction type, activity, and duration; individual behavior; stage of reproductive cycle; and site conditions at each specific nesting burrow. Permittee shall change the method of marking the no-disturbance buffers if corvids, raptors, or other predators are observed perching on marking materials. Permittee shall delineate the no-disturbance buffer with different materials than those used to delineate the Project Area. Permittee shall remove and properly dispose of all materials used for delineation immediately upon completion of the Project.

**8.34. Daily Monitoring.** The Designated Biologist(s) shall be present at all times during Covered Activities to monitor the behavior of any burrowing owl at or within at least 656 feet (200 meters) of the Covered Activities and at least once daily. The Designated Biologist(s) shall have the authority to stop work and increase the buffers if the owls exhibit distress and/or abnormal behavior (e.g., excessive vocalizations,

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defensive flights at intruders, flushing frequently, or otherwise displaying agitated behavior) from Covered Activities. Permittee shall not resume Covered Activities until the Designated Biologist has consulted CDFW and both the Designated Biologist and CDFW confirm that the burrowing owl's behavior has normalized. Daily monitoring may cease when the burrow is vacant because the nest is abandoned; young have dispersed and are fledged, independently foraging, and no longer using the burrows or burrow complex; and/or the adults are no longer nesting at determined by the Designated Biologist.

**8.35. No-Disturbance Buffer Reduction.** The Permittee may submit a no-disturbance buffer reduction request in writing to the CDFW Representative to allow for burrow preservation where impacts can be reasonably avoided, and for burrows to be available to burrowing owls post-construction. Such requests should include visual burrow identification (e.g., flagging) and continued monitoring until Covered Activities are complete. The buffer reduction request shall include at a minimum a monitoring report from the Designated Biologist that documents the burrows for 60 minutes per day for 14 days to determine if the birds have not displayed any courtship behavior and are not in the process of egg-laying or incubation, or all juveniles from the occupied burrows have fledged and moved out of the Project Area.

**8.36. Burrowing Owl Observation.** Permittee shall ensure all workers inform the Designated Biologist if they encounter a burrowing owl within or near [at or within 656 feet (200 meters)] any future or currently active construction work site within the Project Area. All Covered Activities with potential to take the burrowing owl as determined by the Designated Biologist shall cease until the animal moves away from activities on its own. The Designated Biologist or Representative shall contact the CDFW Regional Representative by phone or email within 24 hours of the observation. The Designated Biologist shall make every effort to locate the active burrow(s) and set up and maintain a no-disturbance buffer as specified in this ITP. If an occupied nest (with eggs or young) is observed within a future or currently active construction site, and a previously approved no-disturbance buffer cannot be feasibly implemented, the Designated Biologist shall immediately contact the CDFW Representative for consultation. If a burrowing owl is found injured or an occupied nest (with eggs or young) is confirmed to be abandoned, Permittee shall follow requirements described in Condition of Approval 7.11.2 and the CDFW-approved Burrow Exclusion, Excavation and Monitoring Plan (refer to Condition of Approval 8.39).

**8.37. Entrapment Inspections.** The Designated Biologist shall visually inspect any pipes, debris piles, culverts, pallet stacks, burrow exclusion installations, or similar structures with a diameter greater than 4.3 inches (11 centimeters) for burrowing owl before the material is moved, buried, or capped. The Designated Biologist shall inspect all open holes and trenches within the Project Area at a minimum of twice a day and immediately prior to backfilling. If any worker discovers that burrowing owl have become trapped, they shall halt Covered Activities and notify the Designated

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Biologist immediately. Project workers and the Designated Biologist shall allow the burrowing owl to escape unimpeded if possible, or a Designated Biologist shall move the burrowing owl out of harm's way before allowing work to resume (see Condition of Approval 7.11 if the owl is found to be injured).

**8.38. Detering Predator Attraction.** Permittee shall avoid attracting burrowing owl predators to the Project Area. To the greatest extent feasible, Permittee shall modify Project-related tall structures, fences, or other materials that could be used as perches for ravens, great horned owls, hawks and eagles to discourage perching. 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. Permittee shall ensure all trash be removed from the Project Area or firmly secured daily. Large equipment that is not in use for multiple days shall be covered or stored away from burrowing owl complexes to prevent avian predators from using large equipment as perches.

**8.39. Burrow Exclusion, Excavation and Monitoring Plan.** Permittee shall avoid disturbing any known or potential burrowing owl burrows unless they are in an area of direct ground disturbance (e.g., grading areas, excavation areas) or the burrow location poses a risk of direct harm to burrowing owl individuals. Permittee shall ensure suitable habitat is present within approximately 328 feet (100 meters) of the original burrow prior to exclusion. Prior to any burrowing owl exclusion or burrow excavation, Permittee shall submit an Exclusion, Excavation and Monitoring Plan (Exclusion Plan) to CDFW for review and written approval 15 days, or other timeframe approved by CDFW, prior to any burrowing owl exclusion. The Exclusion Plan shall identify all known burrows including those that are occupied, unoccupied, and of unknown status. All burrows that cannot be avoided shall be clearly identified. The Exclusion Plan shall describe the methods by which the Permittee will exclude owls and excavate burrows.

In addition, the Exclusion Plan shall include the following measures:

- Permittee shall not exclude paired burrowing owl from burrows where there is evidence of activity (sign is present, burrow contains eggs and/or young, or owls have been seen at the entrance or carrying prey) during the nesting season (generally February 1 to August 31).
- If naturally occurring suitable burrows are absent or in numbers insufficient to support owls within dispersal distance, artificial burrows may be installed (see Condition of Approval 8.40). If artificial burrows will be used, the Exclusion Plan shall describe construction and installation methods and specific locations.

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- Burrows that are outside the areas of direct ground disturbance but close enough to the work area that they may be dangerous for burrowing owls to inhabit shall remain intact and the Designated Biologist shall first monitor to determine vacancy, then block the entrance by installing an object (e.g., sandbags) approved in advance, in writing by CDFW, to prevent burrowing owl from entering and using the burrow during Covered Activities. The Designated Biologist shall remove the object immediately after Covered Activities are completed in that work area when the Designated Biologist has determined that potential resumed use of the burrow will not result in harm to burrowing owl. Permittee shall not destroy or modify burrows or exclude burrowing owl from burrows that are beyond the direct footprint of ground disturbance to preempt their use and burrow no-disturbance buffer establishment.
- Exclusionary installations (such as one-way doors) shall be inspected daily to ensure they are functioning properly.
- Permittee shall not excavate active burrowing owl burrows until the nestlings are fully fledged, are independently foraging, and are no longer dependent on the adults or burrow complex.
- The Designated Biologist shall excavate potential or known burrowing owl burrows that cannot be avoided according to the Exclusion Plan only after the Designated Biologist has determined that a burrowing owl is not currently present following eviction/exclusion after at least two consecutive days of monitoring with tracking medium or an infra-red camera(s). Burrow excavation shall be accomplished by careful hand excavation of the entire length of the burrow, until it is certain no individuals are inside. Burrows shall then be filled with soil, and compacted to ensure that burrowing owl cannot reenter or use the burrow during Covered Activities. If the excavation process reveals burrowing owl eggs, young, or adults, then burrow excavation shall cease immediately and monitoring as described above shall be conducted/resumed. Permittee shall contact the CDFW Regional Representative by phone or email within 24 hours of the observation and get written guidance prior to proceeding with burrow filling if an individual burrowing owl does not vacate the partially excavated burrow within a reasonable timeframe.

**8.40. Artificial Burrows.** If destruction of occupied burrows cannot be avoided and the Designated Biologist cannot determine that suitable unoccupied burrows exist outside of the impact area but close enough to be useful to excluded owls, Permittee shall install artificial burrows within approximately 328 feet (100 meters) of the original burrow prior to eviction of the burrows that will be excavated (or further if necessary, with written concurrence from CDFW). Permittee shall ensure that at least two suitable alternate burrows are available for each burrowing owl to be evicted. Permittee shall provide detailed plans for the location, construction,

installation and maintenance of any artificial burrows in the Exclusion Plan (see Condition of Approval 8.39).

**9. Habitat Management Land Acquisition and Restoration:** CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on 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.

*Construction and Maintenance*

To meet this requirement for temporary and permanent loss of habitat, the Permittee shall either purchase 265.4 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 9.2 below within the East Alameda County Conservation Strategy (EACCS) CTS North mitigation area (Chapter 3, Figure 3-10, dated October 2010) OR shall provide for both the permanent protection and management of 265.4 acres of Habitat Management (HM) lands for Covered Species pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below.

The HM lands for California tiger salamander habitat, San Joaquin kit fox habitat, and western burrowing owl habitat may be combined if the habitat is suitable for all three Covered Species and approved by CDFW.

Additional credits or HM lands may be required if the CDFW-approved conservation bank site or HM lands site is outside of the EACCS CTS North mitigation area described above. Additional credits may also be required if the Project is not within the Service Area of the CDFW-approved conservation bank. Permittee shall provide CDFW with a copy of the credit purchase agreement for the required credits prior to commencing Covered Activities.

Purchase of Covered Species credits at a CDFW-approved conservation bank OR permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. If Permittee is unable to purchase credits or provide permanent protection and funding for perpetual management of HM lands within the allowed timeframe, CDFW may require an Amendment to this ITP.

Permittee shall also restore on-site 185.3 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.6. If any temporary impacts do not meet the criteria identified in ITP Conditions of Approval 6.16 and 6.17, then CDFW shall require

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compensatory mitigation to offset the additional Project temporal impacts. If Permittee does not complete seeding of temporary impact areas by October 31, unless otherwise approved by CDFW, of the year of the impact, but restores impact areas within 2 years of the impact consistent with Conditions of Approval 6.16 and 6.17, then CDFW shall consider those disturbed areas as semi-permanent and require compensatory mitigation at a 2:1 ratio (acres of mitigation: acres of impact). If Permittee does not restore areas considered temporarily disturbed within 2 years, then CDFW shall consider those areas as permanent impacts, and require compensatory mitigation at a 3:1 ratio (acres of mitigation: acres of impact).

No take beyond the 212.0 acres of habitat for the Covered Species, authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts. This mitigation requirement will be identified by CDFW in writing and shall be subject to an amendment as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable regulations and law.

**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 and restoration of temporarily disturbed habitat as follows:

- 9.1.1.** Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$20,000.00/acre for 265.4 acres: **\$5,308,000.00** for construction and maintenance impacts. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;
- 9.1.2.** Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.6 below, estimated at **\$60,520.00**;
- 9.1.3.** Interim management period funding as described in Condition of Approval 9.3.7 below, estimated at **\$400,000.00**;
- 9.1.4.** Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$5,000.00/acre for 265.4 acres: **\$1,327,000.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
- 9.1.5.** Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at **\$3,400.00**.

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**9.1.6.** Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.6, calculated at \$3,500.00/acre for 185.3 acres: **\$648,550.00.**

**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: **\$100,000.00.**

**9.2. Covered Species Credits.** If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall purchase 265.4 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.

**9.3. Habitat Management Lands Acquisition and Protection.** To provide for the acquisition and perpetual protection and management of HM lands, the Permittee shall:

**9.3.1. 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.

**9.3.2. Conservation Easement.** If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly

addressing Government Code sections 65966(j) and 65967(e). Because the “doctrine of merger” could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.

- 9.3.3.** 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. HM lands shall meet the minimum habitat requirements for the Covered Species including, but not limited to one or more aquatic features on-site which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) or adjacent to aquatic features which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) and already conserved and managed to the satisfaction of CDFW for the Covered Species; no less than 100 acres of suitable upland or adjacent to suitable upland already conserved and managed for the Covered Species;
- 9.3.4.** 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;
- 9.3.5.** 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.
- 9.3.6.** 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

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four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;

**9.3.7. 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, and pond repair and maintenance.

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.

**9.4. Endowment Fund.** If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 9.3.5. 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

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lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.

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

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

Within thirty days of CDFW’s receipt of Permittee’s written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(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).

- 9.4.2. Calculate the Endowment Funds Deposit.** After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare 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.

- 9.4.2.1. 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.

- 9.4.2.2. Endowment Buffers/Assumptions.** Permittee shall include in the endowment assessment assumptions the following buffers for

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endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

- 9.4.2.2.1.** 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.
- 9.4.2.2.2.** Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
- 9.4.2.2.3.** Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.
- 9.4.3.** Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.
- 9.4.4.** 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.

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**9.5. 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.

**9.6. Habitat Restoration.** Permittee shall restore on-site the 185.3 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions and restore 0.9 acre Covered Species habitat that will be disturbed during maintenance activities. The restoration shall occur the same year the disturbance occurs. Within 6 months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan (Condition of Approval 6.17) to facilitate revegetation of the 185.3 acres of temporary construction disturbance on-site and the 0.9-acre maintenance disturbance, and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The Plan shall also indicate the best time of year for seeding to occur.

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

**10.1. Security Amount.** The Security shall be in the amount of **\$7,847,470.00**. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, 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 4) 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 30 days after the effective date of this ITP, whichever occurs first.

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

**10.5. Security Transmittal.** Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) 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:

- Timely submission of all required reports, and
- 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;

OR

- Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

#### **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 and fully mitigated.

#### **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

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remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, regardless of whether that species is a Covered Species under this ITP. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 30 additional days.

If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

**XII. Liability:**

All terms and conditions of this ITP shall be binding upon each Permittee. Notwithstanding California Civil Code section 1431 or any other provision of law, each Permittee shall be jointly and severally liable for performance of all terms, conditions, and obligations of this ITP and shall be jointly and severally liable for any unauthorized take or other violations of this ITP, whether committed by Permittees or any person acting on behalf of one or more Permittees, including their officers, employees, representatives, agents or contractors and subcontractors. Any failure by one or more Permittees to comply with any term, condition, or obligation herein shall be deemed a failure to comply by all Permittees.

**XIII. 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.

**XIV. 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 (2081-2021-006-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Erin Chappell, Regional Manager  
 California Department of Fish and Wildlife – Bay Delta Region  
 2825 Cordelia Road, Suite 100  
 Fairfield, CA 94534  
 Telephone (707) 428-2002  
[R3CESA@wildlife.ca.gov](mailto:R3CESA@wildlife.ca.gov)

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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](mailto: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:

Brenda Blinn, Senior Environmental Scientist (Supervisory)  
California Department of Fish and Wildlife – Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
Telephone: (707) 339-0334  
Mail: [Brenda.Blinn@wildlife.ca.gov](mailto:Brenda.Blinn@wildlife.ca.gov)

#### **XV. 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, Alameda County Community Development Agency. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Altamont Pass Wind Resource Area Repowering Final Program Environmental Impact Report (PEIR) (State Clearinghouse No. 2010082063), dated October 2014 that the Alameda County Community Development Agency certified for Altamont Pass Wind Resource Area Repowering Project on November 12, 2014 and the Mulqueeneey Ranch Wind Repowering Project Subsequent Environmental Impact Report certified by the Alameda County Community Development Agency on October 7, 2021. At the time the lead agency certified the PEIR 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 PEIR 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

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any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

Furthermore, CDFW finds that adding western burrowing owl to the Covered Species in this Amended ITP does not result in the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163. While western burrowing owl was not considered a candidate for listing under CESA at the time of the PEIR's certification, it does analyze the Project's impacts and includes measures to avoid, minimize, and mitigate impacts on the species. Additionally, a Subsequent EIR (SEIR) and an addendum to the SEIR were prepared in April 2021 and March 2024 respectively, for the Project, and both documents discuss Project impacts to burrowing owl and include measures to avoid, minimize, and mitigate impacts on the species.

#### **XVI. 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. (See Fish & G. Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subs. (a)-(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application, Altamont Pass Wind Resource Area Repowering Final PEIR, Mulqueeny Ranch Wind Repowering Project Environmental Analysis, the results of consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 265.4 acres of compensatory habitat (or 265.4 acres of credits if credits are available for both Covered Species) that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the

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taking authorized by this ITP;

- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

#### *Amendment Findings*

CDFW finds that this Amendment is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5). Issuance of this Amendment will increase the amount of permitted take of Covered Species compared to the Project as originally approved by adding western burrowing owl to the list of Covered Species; however, by implementing avoidance and minimization measures specific to western burrowing owl and requiring compensatory mitigation in the form of conserving western burrowing owl habitat, it is not expected that this Amendment will increase Project impacts on these species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)). Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

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**XVII. Attachments:**

FIGURE 1	Map of Project
ATTACHMENT 1	Amended Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Amphibian Restraint and Handling
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form
ATTACHMENT 6	Major Amendment No. 1 with Track Changes

**ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

ON 2/11/2025

DocuSigned by:  
*Erin Chappell*  
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Erin Chappell, Regional Manager  
Bay Delta Region

**Attachment 1**

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

**INCIDENTAL TAKE PERMIT NO. 2081-2021-006-03**

**PERMITTEE: Mulqueeney Wind Energy, LLC**

**PROJECT: Mulqueeney Ranch Wind Repowering Project**

**PURPOSE OF THE MMRP**

The purpose of the 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
<b>BEFORE DISTURBING SOIL OR VEGETATION</b>					
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.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Designated Biologists and Biological Monitors. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.  Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.	ITP Condition # 6.3	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
4	<p>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 be provided to any new workers before they are authorized to work in the Project Area. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Additionally:</p> <p>(1) Permittee shall provide interpretation for non-English speaking workers;</p> <p>(2) The program shall present an overview of turbine operations, this ITP, and the current monitoring activities taking place onsite by the Designated Biologist(s);</p> <p>(3) The program shall include a brief explanation of the state and federal laws protecting the Covered Species and the other avian species, and the penalties for violating these laws including: California Endangered Species Act (Fish &amp; G. Code, § 2050 et seq.); Fish and Game Code § 3503, 3503.5, 3511, and 3513; Migratory Bird Treaty Act (16 U.S.C. § 703); and Bald and Golden Eagle Protection Act (16 U.S.C. § 668);</p> <p>(4) Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing the above information for workers to carry in the Project Area;</p> <p>(5) Upon completion of the program, employees shall sign and date a form stating they attended the program and understand all protection measures and shall indicate on the form the date of the program and the date they started working in the Project Area;</p> <p>(6) The program shall be repeated a minimum of once annually for long-term and/or permanent employees working in the Project Area;</p>	ITP Condition # 6.4	<p>Before commencing ground- or vegetation-disturbing activities/ Entire Project</p>	Permittee	
5	<p>Construction Monitoring Documentation. The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. The Designated Biologist(s) shall maintain construction monitoring binders throughout the construction period. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.</p>	ITP Condition # 6.5	<p>Before commencing ground- or vegetation-disturbing activities/ Entire Project</p>	Permittee	
6	<p>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. Plastic water bottles and plastic bags should be removed daily.</p>	ITP Condition # 6.6	<p>Before commencing ground- or vegetation-disturbing activities/ Entire Project</p>	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	Erosion Control. All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Permittee shall utilize erosion control measures throughout all phases of the Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. Erosion control measures shall not create a barrier to movement of California tiger salamander. No phase of the Project that may cause the introduction of sediments into a drainage, stream, or pond may be started if that phase and its associated erosion control measures cannot be completed prior to the onset of a storm. Permittee shall consult 72-hour weather forecasts from the National Weather Service prior to startup of any phase of the Project that may result in sediment runoff to the stream. The Designated Biologist(s) shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately.	ITP Condition # 6.8	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
8	Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
9	Delineation of Property Boundaries. Before starting Covered Activities, along each part of the route or site in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
10	Vegetation Removal. Disturbance or removal of vegetation shall be kept to the minimum necessary to complete project related activities. Vegetation marked for protection may only be trimmed with hand tools to the extent necessary to gain access to the work sites.	ITP Condition # 6.11	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
11	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.	ITP Condition # 6.12	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
12	Vegetation Restoration. Permittee shall prepare a Vegetation Restoration Plan (Restoration Plan) to restore Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions. Permittee shall submit the Restoration Plan to CDFW for approval within at least 15 days prior to the start of restoration activities. The Restoration Plan shall include results of soil analysis which will include ground-truthing soil conditions (e.g., type, texture, chemical composition and pH) by taking a soil sample and submitting the sample to an analytical lab. The Restoration Plan shall identify plant species damaged or removed during Project activities. The Restoration Plan shall include the following restoration standards:	ITP Condition # 6.16	Before commencing ground- or vegetation-disturbing activities	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
13	Reference Sites. Prior to initiating ground disturbance, Permittee shall establish a representative number of transects within disturbed areas ("treatment") which will each be associated with a reference ("control") site (i.e., site within intact natural habitat that will be used as a model for restoration activities). Each treatment-control transect set shall be appropriately placed and numbered for identification purposes. The slope, aspect and hydrological conditions shall be similar for both the site to be restored and the reference site. To document existing plant communities, Permittee shall photograph the treatment and control sites during the spring (March to June) when most flowering plants are in bloom. Permittee shall also evaluate species composition at the reference site. Permittee shall use information collected at the reference site to guide restoration activities.	ITP Condition # 6.16.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)		

<p>14</p>	<p>Performance Standards. To be considered a successful restoration site, Permittee shall meet the following performance standards:</p> <p>Gravel shall be removed from restored areas;</p> <p>To the maximum extent feasible, topsoil shall be salvaged from within on-site work areas prior to construction. Imported fill soils shall be limited to weed-free topsoil similar in texture, chemical composition and pH to soils found at the reference site. At least two soil samples from each off-site fill source shall be submitted to a soil sampling lab for analysis. If Permittee chooses to import fill from an off-site location, CDFW and the property owner(s) shall be notified of the source of the fill at least 30 days in advance and shall be given the opportunity to inspect the fill and its source. If the fill source is deemed to be inappropriate (e.g., the type of soil is inappropriate or the soil would be sourced from a site with a major weed infestation), CDFW may require an alternative source of fill;</p> <p>Drivers might attempt to use adjacent shoulders for parking or to avoid ruts that form in roadways. Therefore, to protect restored habitat adjacent to permanent roads, permanent roads shall be kept in good repair, and barriers or fill shall be placed between the edge of the road and restored shoulders at the same grade to restrict vehicular access;</p> <p>Minor re-contouring may be conducted; however, Permittee shall limit grading, compaction, fill and all other earthmoving activities to the Project Area. Soils shall be protected from wind erosion using a biodegradable erosion control blanket or appropriate mulch cover (i.e., hydroseed or mulch) until vegetation is established. Seed shall be applied in the early fall, between October 15 and October 31. If feasible, seed shall be applied immediately prior to the first rain event;</p> <p>Permittee shall pre-designate each restoration area for establishment of a specific native vegetation community, based on slope, aspect, hydrological conditions and, if applicable, adjacent native vegetation. The seed mix for each restoration site shall be tailored to achieve the species composition of the pre-designated vegetation community. The distribution of vegetation communities within the restoration area shall be roughly proportionate to any native vegetation communities impacted. Following restoration, the species composition of each restoration site shall closely match that of the associated reference site;</p> <p>Seed mixes shall include only locally native species at a ratio appropriate to the site, with an emphasis on native bunchgrasses and other grassland species. Local native wildflower may also be included in the mix. Seed may be collected from within the Project Area. Additional seed shall be sourced from within 50 miles of the Project Area (i.e., original genetic material shall have been collected within this radius); however, the seed may be purchased from a seed farm outside of this area. For seeding and mulching exposed slopes, the seed blend may include one or two sterile non-native perennial grass species.</p> <p>Permittee shall complete seeding as soon as possible, but no later than October 31 of the year of the impact. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.</p> <p>No more than 15 percent (%) of the vegetation in each restoration site shall consist of species designated as high or moderate invasive plants in the California Invasive Plant Council's (Cal-IPC) California Invasive Plant Inventory Database (<a href="http://www.cal-ipc.org/paf/">http://www.cal-ipc.org/paf/</a>). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate</p>	<p>ITP Condition # 6.16.2, 6.16.2.1, 6.16.2.2, 6.16.2.3, 6.16.2.4, 6.16.2.5, 6.16.2.6, 6.16.2.7, 6.16.2.8</p>	<p>Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)</p>		
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	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
	control activities in coordination with the property owner.				
15	<p>Monitoring and Maintenance. Permittee is responsible for monitoring and maintaining the restored areas for a period of five (5) years or until the Restoration Plan success criteria have been met, whichever is longer. For the first six months following completion of restoration activities, Permittee shall submit a brief monitoring report (10 pages or less, not including figures) detailing vegetation establishment, percent invasive plant cover, and other relevant observation regarding success of the restoration project to CDFW and then annually thereafter until performance standards have been met as outlined in Condition of Approval 6.16.2 or until otherwise instructed by CDFW.</p> <p>If the survival and/or cover requirements are not meeting the performance standards outlined in Condition of Approval 6.16.2, Permittee is responsible for replacement planting, additional watering, weeding, invasive plant eradication or any other practice to achieve these requirements. Permittee shall continue to submit monthly restoration reports (see Condition of Approval 7.6) to CDFW until the standards have been met. Replacement plantings shall be monitored with the same survival and growth requirements for five (5) years after planting.</p>	ITP Condition # 6.16.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)		
16	<p>Invasive Plant Species Control- Baseline. Permittee shall ensure that pre-Project baseline conditions are established for documenting type, location and general abundance of invasive plant species within the Project Area. These baseline conditions will be used for post-construction monitoring of restored areas (see Condition of Approval 6.21). The Designated Biologist(s) qualified to do botanical surveys and approved by CDFW shall submit the sampling methodology to CDFW at least 30 days prior to conducting baseline surveys. The baseline survey shall include both a qualitative (windshield and pedestrian) and quantitative assessment of target species within the Project Area.</p> <p>Permittee shall ensure that baseline sampling at control transects is conducted prior to the start of Project construction activities. Sampling shall be conducted during the appropriate season for detecting invasive plant species and shall be based on an appropriate number of monitoring plots (treatment and control sets) approved by CDFW. The Designated Biologist(s) shall conduct sampling for target invasive plant species ranked by the Cal-IPC's Inventory as High or Moderate (<a href="http://www.cal-ipc.org/paf/">http://www.cal-ipc.org/paf/</a>).</p>	ITP Condition # 6.18	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
17	<p>Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. The construction schedule shall identify the approximate beginning and completion date for each major Project activity within the construction phase. Permittee shall notify CDFW of any major changes in the construction schedule at least seven days prior to the change being implemented.</p>	ITP Condition # 6.21	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
18	<p>Emergency Response Plan. Before the onset of work, Permittee shall prepare an Emergency Response Plan describing actions that will be taken in case of a fire or other natural disaster or in case of a human-generated disaster, such as a spill or release of hazardous materials. An emergency phone tree, including contact information for all appropriate disaster management agencies and natural resources agencies, shall be included in the plan and should be posted on site in a visible location. The Emergency Response Plan shall specify containment procedures for hazardous substances, with emphasis on avoidance of the aquatic features at the Project site.</p>	ITP Condition # 6.22	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
19	<p>Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.</p>	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
20	<p>Photo Monitoring. No less than 10 photo monitoring stations shall be established to provide representative views of Project, construction, and restoration activities. Photo monitoring station results shall contribute to the assessment of temporary impacts and restoration work by CDFW; therefore, Permittee should ensure that photo monitoring stations numbers and locations are sufficient to document temporary impacts and restoration success. Photo monitoring shall be done as follows:</p> <p>Stations should be located in areas that allow for unobstructed views and a field of vision of approximately 2,000 feet.</p> <p>At least one photograph shall be taken at all stations prior to ground-breaking activities, and each month thereafter until construction and initial restoration are complete. Photo documentation of restoration success shall occur every three months following initial restoration until restoration success criteria are reached.</p> <p>Photo monitoring station locations shall be provided to CDFW in a geographic format with the coordinate system identified.</p> <p>If CDFW or the Designated Biologist(s) determines that additional monitoring stations are necessary, the locations shall be added to the inventory of photo monitoring stations.</p> <p>During each photo monitoring cycle, all stations shall be visited within two days.</p>	ITP Condition # 7.4, 7.4.1, 7.4.2, 7.4.3, 7.4.4, 7.4.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
21	<p>Pond Monitoring. Permittee shall submit a Pond Monitoring Plan to CDFW for approval within a minimum of 15 days prior to the start of Project construction. The Pond Monitoring Plan shall include a sampling methodology to collect both baseline and post-construction hydrologic data in order to evaluate the impacts of road construction and installation of culverts on pond hydrology. Monitoring shall be conducted in all ponds that could be indirectly impacted by Covered Activities for a minimum of three years (three California tiger salamander breeding seasons) post-construction. The sampling methodology shall include hydrologic parameters such as pond depth, hydroperiod, flow regime, and water quality.</p>	ITP Condition # 7.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
22	Relocation of California Tiger Salamander. Permittee shall develop a Relocation Plan for California tiger salamander and submit it to CDFW for approval prior to ground-disturbing activities occurring within 1.3 miles of known California tiger salamander breeding pools or in suitable upland habitat. Permittee shall quantify the amount, relative location, and quality of suitable habitat (e.g., breeding, upland, and dispersal habitat) including invasive and non-native species present, available upland burrows, and potential barriers for movement. The Designated Biologist shall relocate any California tiger salamander individuals within the Project Area impacted by Covered Activities to an active rodent burrow system or appropriate breeding pond located no more than 250 feet outside of the work area and described in the Relocation Plan, unless otherwise approved in advance by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 8.5). The Designated Biologist shall contact CDFW's Regional Representative within 24 hours of any relocation incidents. All relocations shall be reported in the monthly and final compliance report. At a minimum, the report of the relocation shall include the time, location, and circumstances that led to the California tiger salamander being discovered; the location where the California tiger salamander was relocated; and photographs of the animal including the ventral and lateral as well as the dorsal surfaces. All locations shall be geo-referenced and detailed in text.	ITP Condition # 8.20	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
23	Pre-Construction Surveys, San Joaquin Kit Fox. Within 15 days prior to any habitat modification, the Designated Biologist shall conduct transect surveys to detect potential San Joaquin kit fox dens. The Designated Biologist shall conduct walking transects such that 100 percent visual coverage of the Project Area is achieved. Transect width shall be adjusted based on vegetation height, topography, etc., to facilitate the detection of dens and other sign. Walking transect surveys shall be used to detect and map known dens, potential dens, and sign (tracks, scat, prey remains). Detection dogs may be used if practicable. Potential San Joaquin kit fox scat shall be collected and labeled based on mapped location. Potential dens shall be considered to be any subterranean hole on the site that has entrances of appropriate dimensions for which available evidence is insufficient to conclude that it is being used or has been used by a San Joaquin kit fox.	ITP Condition # 8.25	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
24	Construction Buffers for San Joaquin Kit Fox Dens. If a potential San Joaquin kit fox den is discovered, or a fox is found in an "atypical" den such as a pipe or culvert, Permittee or Designated Biologist shall establish a 50-foot buffer using flagging. If a known kit fox den (one that shows evidence of current use or is known to have been used in the past) is discovered, a buffer of at least 100 feet shall be established using fencing. If a natal den is discovered, it shall be fenced and avoided in a buffer with a diameter of at least 200 feet. Permittee or Designated Biologist shall notify USFWS and CDFW for all of the above except potential kit fox dens. Buffer zones shall be considered environmentally sensitive areas, and entry shall be restricted.	ITP Condition # 8.26	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
25	Protocol-level Surveys. Prior to starting construction-related Covered Activities, the Designated Biologist shall complete protocol-level overwintering and nesting surveys following the methodology described in the Staff Report on Burrowing Owl Mitigation, Appendix D (2012), found at <a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&amp;inline</a> . Surveys shall include a minimum of four visits and shall consist of walking line transects spaced 23 feet to 66 feet (7 to 20 meters) apart, or as close to this method as the terrain allows. The four survey visits shall include at least one survey between February 15 and April 15, and a minimum of three surveys at least three weeks apart between April 15 and July 15 with at least one survey after June 15. If construction is scheduled to commence by April 15, 2025 (refer to Condition of Approval 8.6) then the Designated Biologist shall conduct a minimum of one survey prior to the start of construction. If construction is scheduled to commence after April 15, 2025, the Designated Biologist shall conduct a sufficient number of surveys based on the date of the start of construction in consultation with the CDFW Representative. The Designated Biologist shall submit the results of the survey to CDFW at least 15 days prior to beginning construction-related Covered Activities or other timeframe approved by CDFW, or within 24 hours prior to beginning construction-related Covered Activities if surveys overlap with the pre-construction avoidance surveys (refer to Condition of Approval 8.30).	ITP Condition # 8.29	Before commencing ground- or vegetation-disturbing activities	Permittee	
26	Burrow Complex Map. Within 15 days prior to starting construction-related Covered Activities, or other timeframe approved by CDFW, the Designated Biologist shall provide to CDFW a KMZ map of the burrowing owl burrow complex(es) and atypical burrows (e.g. culverts, buckled concrete, etc.). The map shall be at a scale of 1:24,000 or finer to show details and shall show locations of all burrowing owl sightings and labeled if sightings were potential burrows, occupied burrows, satellite burrows, areas of concentrated burrows, and burrowing owl sign. Locations documented by use of GPS coordinates must be collected in NAD83 datum. The map shall include an outline of the Project Area. The map shall include a title, north arrow, scale bar, and legend.	ITP Condition # 8.30	Before commencing ground- or vegetation-disturbing activities	Permittee	
27	Pre-construction Avoidance Surveys. No more than 14 days prior to beginning construction-related Covered Activities, the Designated Biologist shall conduct at least two surveys using the methods described in the CDFW Staff Report on Burrowing Owl Mitigation, Appendix D (2012) or other appropriate method if agreed upon in writing by CDFW, at least seven days apart, with the final survey conducted no more than 48 hours prior to beginning Covered Activities. Pre-construction surveys may be conducted as part of the protocol-level surveys described in Condition of Approval 8.29. The Designated Biologist shall submit the results of the survey to CDFW within 24 hours prior to beginning Covered Activities. If changes in burrowing owl presence are detected (e.g., burrowing owl have moved onsite or changed burrow use), the Designated Biologist shall contact the CDFW Representative by phone or email within 24 hours of the observation to consult on appropriate measures to avoid or minimize impacts of the Project to burrowing owl. If a lapse in project-related work of 14 calendar days or longer occurs, Permittee shall contact the CDFW Representative by phone or email and may be required to conduct additional surveys before work may be reinitiated.	ITP Condition # 8.31	Before commencing ground- or vegetation-disturbing activities	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
28	<p>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 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>Construction and Maintenance</p> <p>To meet this requirement for temporary and permanent loss of habitat, the Permittee shall either purchase 265.4 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 9.2 below within the East Alameda County Conservation Strategy (EACCS) CTS North mitigation area (Chapter 3, Figure 3-10, dated October 2010) OR shall provide for both the permanent protection and management of 265.4 acres of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below.</p> <p>Additional credits or HM lands may be required if the CDFW-approved conservation bank site or HM lands site is outside of the EACCS CTS North mitigation area described above. Additional credits may also be required if the Project is not within the Service Area of the CDFW-approved conservation bank. Permittee shall provide CDFW with a copy of the credit purchase agreement for the required credits prior to commencing Covered Activities.</p> <p>Purchase of Covered Species credits at a CDFW-approved conservation bank OR permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. If Permittee is unable to purchase credits or provide permanent protection and funding for perpetual management of HM lands within the allowed timeframe, CDFW may require an Amendment to this ITP.</p> <p>Permittee shall also restore on-site 185.3 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.6. If any temporary impacts do not meet the criteria identified in ITP Conditions of Approval 6.16 and 6.17, then CDFW shall require compensatory mitigation to offset the additional Project temporal impacts. If Permittee does not complete seeding of temporary impact areas by October 31, unless otherwise approved by CDFW, of the year of the impact, but restores impact areas within 2 years of the impact consistent with Conditions of Approval 6.16 and 6.17, then CDFW shall consider those disturbed areas as semi-permanent and require compensatory mitigation at a 2:1 ratio (acres of mitigation: acres of impact). If Permittee does not restore areas considered temporarily disturbed within 2 years, then CDFW shall consider those areas as permanent impacts, and require compensatory mitigation at a 3:1 ratio (acres of mitigation: acres of impact).</p> <p>No take beyond the 212.0 acres of habitat for the Covered Species, authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts. This mitigation requirement will be identified by CDFW in writing and shall be subject to an amendment as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable regulations and law.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
29	<p>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 and restoration of temporarily disturbed habitat as follows:</p> <p>Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$20,000.00/acre for 265.4acres: \$5,308,000.00 for construction and maintenance impacts. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;</p> <p>Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.6 below, estimated at \$60,520.00;</p> <p>Interim management period funding as described in Condition of Approval 9.3.7 below, estimated at \$400,000.00;</p> <p>Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$5,000.00/acre for 265.4 acres: \$1,327,000.00. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.</p> <p>Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at \$3,400.00.</p> <p>Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.6, calculated at \$3,500.00/acre for 185.3 acres: \$648,550.00.</p> <p>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: \$100,000.00.</p>	ITP Conditions # 9.1, 9.1.1, 9.1.2, 9.1.3, 9.1.4, 9.1.5, 9.1.6, 9.1.7	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
30	<p>Covered Species Credits. If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall purchase 265.4 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.</p>	ITP Conditions # 9.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

<p>31</p>	<p>To provide for the acquisition and perpetual protection and management of HM lands, the Permittee shall:</p> <p>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.</p> <p>Conservation Easement. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.</p> <p>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. HM lands shall meet the minimum habitat requirements for the Covered Species including, but not limited to one or more aquatic features on-site which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) or adjacent to aquatic features which have been documented to support successful Covered Species breeding in an average or below average rainfall year (abundance and distribution) and already conserved and managed to the satisfaction of CDFW for the Covered Species; no less than 100 acres of suitable upland or adjacent to suitable upland already conserved and managed for the Covered Species;</p> <p>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;</p> <p>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.</p>	<p>ITP Conditions # 9.3, 9.3.1, 9.3.2, 9.3.3, 9.3.4, 9.3.5, 9.3.6, 9.3.7</p>	<p>Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)</p>	<p>Permittee</p>	
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	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
	<p>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 <a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&amp;inline</a>) (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;</p> <p>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, and pond repair and maintenance.</p> <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>				

<p>32</p>	<p>Endowment Fund. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 9.3.5. 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.</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 this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p> <p>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.</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>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.</p>	<p>ITP Conditions # 9.4, 9.4.1, 9.4.2, 9.4.2.1, 9.4.2.2, 9.4.2.2.1, 9.4.2.2.2, 9.4.2.2.3, 9.4.3, 9.4.4</p>	<p>Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)</p>	<p>Permittee</p>	
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	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
	<p>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.</p> <p>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:</p> <p>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.</p> <p>Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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>				
33	<p>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.</p>	ITP Conditions # 9.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
34	<p>Habitat Restoration. Permittee shall restore on-site the 185.3 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions and restore 0.9 acre Covered Species habitat that will be disturbed during maintenance activities. The restoration shall occur the same year the disturbance occurs. Within 6 months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan (Condition of Approval 6.17) to facilitate revegetation of the 185.3 acres of temporary construction disturbance on-site and the 0.9-acre maintenance disturbance, and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The Plan shall also indicate the best time of year for seeding to occur.</p>	ITP Conditions # 9.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
35	<p>Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>Security Amount. The Security shall be in the amount of \$7,847,470.00. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.</p> <p>Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.</p> <p>Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>Security Transmittal. Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> <li>• Timely submission of all required reports, and</li> <li>• Written documentation of the acquisition of the HM lands;</li> <li>• Copies of all executed and recorded conservation easements;</li> <li>• Written confirmation from the approved Endowment Manager of its receipt of the full Endowment;</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits.</li> </ul> <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 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Conditions # 10, 10.1, 10.2, 10.3, 10.4, 10.5, 10.6, 10.7	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<b>DURING CONSTRUCTION</b>					
36	Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 6.7	Entire Project	Permittee	
37	Additional Impacts to Habitat. No take beyond the permanent loss of 26.7 acres of habitat for the Covered Species and temporary loss of 185.3 acres of habitat for the Covered Species authorized in this ITP during construction shall occur unless this ITP is amended by CDFW prior to additional impacts. The Permittee shall submit a request for such amendment with supporting information. Permittee may conduct Project construction work not involving ground disturbance such as installing WTGs on constructed concrete pads during the November 1 to April 14 wet season (Condition of Approval 8.7). However, if such work during the wet season results in areas previously considered temporarily-disturbed (for example, interior road shoulders) to be restored past October 31 of the year of the impact (Condition of Approval 6.15), then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (Condition of Approval 6.16.2).	ITP Condition # 6.13	Entire Project	Permittee	
38	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.	ITP Condition # 6.14	Entire Project	Permittee	
39	Temporary Impact Criteria. To be considered a temporary impact, all temporary impacts must meet the following criteria: (1) recontouring and seeding of each temporary impact area shall occur by October 31 of the year of the impact unless CDFW approves an extension, and provided no additional ground disturbing activities shall occur until construction is completed; (2) if the impact area is within 2000 feet of an aquatic feature, all work shall be completed within this area and exclusion fencing shall be removed by October 31 of the same calendar year, allowing the Covered Species unrestricted access between upland and aquatic habitat; and (3) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (see ITP Condition of Approval 6.17).	ITP Condition # 6.15	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
40	<p>Tracking Impacts. Permittee shall track temporary impacts and notify CDFW if take authorization is likely to be exceeded in the coming month(s). Permittee shall submit an appropriately revised Project construction schedule (see Condition of Approval 6.21) within seven (7) days in order to ensure temporary impacts remain within the temporary impact criteria according to Condition of Approval 6.16. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.</p> <p>If Permittee determines that the take authorization for temporary impacts has been exceeded, Permittee shall cease all new construction activities until appropriate take authorization has been provided if so directed in writing by CDFW.</p>	ITP Condition # 6.17, 6.17.1	Entire Project	Permittee	
41	<p>Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: <a href="http://www.cal-ipc.org/ip/prevention/index.php">http://www.cal-ipc.org/ip/prevention/index.php</a> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <a href="http://www.protectyourwaters.net/">http://www.protectyourwaters.net/</a>.</p>	ITP Condition # 6.19	Entire Project	Permittee	
42	<p>Invasive Plant Species Control Plan. Permittee shall prepare an Invasive Plant Species Control Plan (Invasive Plant Plan) to effectively control and monitor invasive plants within Covered Species habitat that will be temporarily disturbed and subsequently restored. The Invasive Plant Plan shall include the results of baseline surveys (see Condition of Approval 6.19). Permittee shall submit the Invasive Plant Plan to CDFW for approval within 30 days prior to the start of restoration activities. The Designated Biologist shall oversee the management of invasives within the Project Area and may use control methods such as hand removal, mechanical removal and/or focused herbicide application within seeding and planting areas following vegetation restoration. The Designated Biologist shall ensure that invasive plant removal does not result in damage to adjacent Covered Species habitat or to root systems of installed plants. Herbicides may be used if hand or mechanical removal of invasives is unsuccessful or infeasible. Herbicides shall not be used within or near aquatic habitat and shall only be applied by an applicator holding a valid license issued by the California Department of Pesticide Regulation.</p>	ITP Condition # 6.20	Entire Project	Permittee	
43	<p>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.</p>	ITP Condition # 6.23	Entire Project	Permittee	
44	<p>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.</p>	ITP Condition # 6.24	Entire Project	Permittee	
45	<p>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 work areas. (See Condition of Approval 6.11.)</p>	ITP Condition # 6.25	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
46	Night-time Activities and Artificial Lighting. To the maximum extent feasible, Permittee shall ensure that night-time work is avoided. If night-time work cannot be avoided, it will be limited in extent, duration and brightness to the maximum extent feasible. No earthmoving activities or overland travel shall take place during night-time work. All night-time work and construction-related traffic shall be suspended during rain events. Lighting shall be faced downward and shall only be utilized in the immediate workspace. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.	ITP Condition # 6.26	Entire Project	Permittee	
47	Firearms and Dogs. Permittee shall prohibit firearms from the Project Area and Project site access routes during Covered Activities, except those that are in the possession of authorized security personnel or local, State, or federal law enforcement officials. Permittee shall prohibit domestic dogs from the Project Area and Project site access routes during Covered Activities, except those that are in the possession of authorized security personnel or local, State, or federal law enforcement officials, or professional dog handlers for use in Project post-construction fatality monitoring.	ITP Condition # 6.27	Entire Project	Permittee	
48	Wildfire Prevention. If the Project site is within a high or very high Fire Hazard Severity Zone (refer to <a href="https://egis.fire.ca.gov/FHSZ/">https://egis.fire.ca.gov/FHSZ/</a> ) or the risk of fire danger is high based on 7-day predictions from National Oceanic and Atmospheric Administration forecasts, Permittee shall mow access pathways, staging areas and work areas before allowing heavy equipment and vehicles to access the site. Non-living vegetative debris shall be cleared from around the immediate work footprint, and basic fire suppression supplies shall be kept on site at all times. Disking and/or tilling are not permitted for fire prevention without prior written permission from CDFW.	ITP Condition # 6.28	Entire Project	Permittee	
49	Notification of Non-compliance. The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.	ITP Condition # 7.2	Entire Project	Permittee	
50	Compliance Monitoring. The Designated Biologist(s) shall be on-site full-time daily when Covered Activities occur. The Designated Biologist(s) shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist(s) shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist(s) shall conduct compliance inspections a minimum of once per week during periods of inactivity, or daily as long as exclusion fencing is in place.	ITP Condition # 7.3	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
51	<p>Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.2, 7.3, and 7.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure.</p> <p>Monthly Compliance Reports shall detail approximate Project impacts in acres, separated into permanent and temporary impacts. Temporary impacts shall be categorized as defined in Condition of Approval 6.15. The temporary impacts category shall: (1) identify and describe the temporary impacts to date; (2) describe the location, acres, and type of restoration actions that have occurred; and (3) include all monitoring information required by the Restoration Plan described in Conditions of Approval 6.16 and 6.17.</p> <p>Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Brenda Blinn (Brenda.Blinn@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.</p>	ITP Condition # 7.6	Entire Project	Permittee	
52	<p>Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.6; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.</p>	ITP Condition # 7.7	Entire Project	Permittee	
53	<p>CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within five calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. The Designated Biologist shall submit the observation to notification along with GPS coordinates to CDFW's Regional Representative by email at Brenda.Blinn@wildlife.ca.gov within 24 hours.</p>	ITP Condition # 7.10	Entire Project	Permittee	

<p>54</p>	<p>Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW'S Regional Representative by email at <a href="mailto:Brenda.Blinn@wildlife.ca.gov">Brenda.Blinn@wildlife.ca.gov</a> and by phone at (707) 339-0334. If an individual Covered Species is found injured, Permittee shall immediately transport the injured individual to the closest wildlife rehabilitation center equipped with permits to receive and treat the species (see also Condition of Approval 8.5 for California tiger salamander). The initial notification to CDFW shall include information regarding the location, species, number of animals taken or injured, the ITP number, nearest turbine number, and, if injured, the facility to which the individual was transported. Following initial notification, Permittee shall send the CDFW Regional Representative a written report within two calendar days. The report shall include the common and scientific name, date and time of the finding or incident, geo-referenced location of the animal or carcass (Project name, County, GPS location, GPS error, and GPS datum), sex (if known), life stage/age class (if known), observer name and contact information, ITP number, nearest turbine number and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information. The Designated Biologist or Designated Representative shall provide weekly updates on the status of the rehabilitation facility's treatment of the individual.</p> <p>California tiger salamander. If a California tiger salamander carcass is found, Permittee shall remove a ½-inch portion of the tail tip and place in a labeled tissue tube with 95 percent ethanol. If salvageable, Permittee shall immediately place the carcass in a clean, sealed, plastic bag with specimen label, and temporarily store in a freezer. The specimen label shall be attached directly to the specimen (tied to carcass) and shall include the common and scientific name, date and time of collection, geo-referenced location (Project name, County, GPS location, GPS error, and GPS datum), circumstances surrounding death (if known), sex (if known), life stage/age class (if known), collector name and contact information, and ITP number. If the specimen is observed on a date prior to collection, the specimen label shall include also the detection date and time.</p> <p>Permittee shall deliver tail specimen to: CDFW Bay Delta Region, Attention: Brenda Blinn, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534</p> <p>Permittee shall deliver remaining carcass to the following address within two calendar days of the discovery: CDFW Wildlife Health Laboratory, Attention: Deana Clifford, 1701 Nimbus Road, Suite D, Rancho Cordova, CA 95670</p> <p>Western Burrowing Owl Mortality, Injury and Nest Abandonment. If a burrowing owl carcass is found, Permittee shall notify the CDFW Regional Representative and Krysta Rogers (<a href="mailto:Krysta.Rogers@wildlife.ca.gov">Krysta.Rogers@wildlife.ca.gov</a>) at the CDFW Wildlife Health Laboratory, via email within 24 hours of the carcass discovery. The Designated Biologist or Designated Representative shall collect the carcass and place it in a clean, sealed, plastic bag with a specimen label, and temporarily store in a freezer. The Designated Biologist or Designated Representative shall obtain packing and transportation or shipping instructions from the Wildlife Health Laboratory, and deliver the specimen within 60 days of discovery to the address below:</p> <p>CDFW Wildlife Health Laboratory, Avian Investigations, Attention: Krysta Rogers, 1701 Nimbus Road, Suite D, Rancho Cordova, CA 95670</p> <p>If a burrowing owl is found injured, the Designated Biologist shall immediately notify the CDFW Regional Representative at <a href="mailto:Brenda.Blinn@wildlife.ca.gov">Brenda.Blinn@wildlife.ca.gov</a> and by phone at (707) 339-0334 and</p>	<p>ITP Condition # 7.11, 7.11.1, 7.11.2</p>	<p>Entire Project</p>	<p>Permittee</p>	
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	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>shall transport the injured individual to a CDFW-approved wildlife rehabilitation center or veterinary facility.</p> <p>The initial notification to CDFW shall include information regarding the location, species, number of animals taken or injured, and if injured, the facility to which the individual was transported. Following initial notification, Permittee shall send the CDFW Regional Representative a written report within two calendar days. The report shall include the common and scientific name, date and time of the finding or incident, geo-referenced location of the animal or carcass (Project name, County, GPS location, and GPS datum), sex (if known), life stage/age class (if known), observer name and contact information, ITP number, a photograph (if possible), explanation as to cause of take or injury, and any other pertinent information. The Designated Biologist or Designated Representative shall provide weekly updates on the status of the rehabilitation facility's treatment of the individual.</p> <p>If nestling(s) or egg(s) are abandoned, the Designated Biologist shall recover the nestling(s) and or egg(s) and immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall bear any cost associated with care and recovery of any injured burrowing owl adults, nestling(s) or egg(s), and hacking (controlled release of captive reared young), and follow the notification and reporting requirements described above.</p>				
55	<p>Inspection of Pipes and Culverts. All construction pipes, culverts, or similar structures with a diameter of 2 inches or greater that are stored in the Project Area for one or more overnight periods shall be either securely capped prior to storage or thoroughly inspected by the Designated Biologist(s) and/or the construction foreman/manager for the Covered Species or other animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a California tiger salamander is found, it may be relocated as described in Condition of Approval 8.20. If a San Joaquin kit fox or western burrowing owl is found, it shall not be handled, but shall be allowed to passively move away from the work area (see Condition 8.24).</p>	ITP Condition # 8.1	Entire Project	Permittee	
56	<p>Inspection of Reclaimed Pads Prior to Removal. To-be-reclaimed turbine pad areas shall be inspected by the Designated Biologist no more than two weeks prior to removal of the pad to determine the presence and extent of any burrow complexes. Survey results, including photographs of burrow complexes, shall be provided to CDFW at least one week prior to initiation of reclamation of the pads. If burrow complexes are found around one of these turbine pads, Permittee shall consult with the CDFW Regional Representative before conducting removal and reclamation activities. Importation of fill and re-contouring activities are subject to CDFW approval if burrow complexes are present.</p>	ITP Condition # 8.2	Entire Project	Permittee	
57	<p>Excavation of Refuge Habitat. All excavation of potential refuge features, including small-mammal burrows, individual rocks and rock piles, and other accessible features with an entrance diameter of greater than or equal to 2 inches, as well as gopher digging piles and mounds, shall be carried out by hand by the Designated Biologist. Tool use for excavation shall be limited to a hand trowel or garden spade. Burrows shall be excavated to the terminus of each branch or until the burrow diameter is less than 1 inch.</p>	ITP Condition # 8.3	Entire Project	Permittee	
58	<p>Use of Rodenticide and Poison. At no time during the life of the Project shall rodenticides or other poisons used in the control of burrowing animals be used by Permittee in the Project Area or within mitigation lands.</p>	ITP Condition # 8.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
59	<p>Covered Species Handling and Injury. California tiger salamanders shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) (Attachment 3). If an injured Covered Species is found during the Project term, the individual shall be evaluated by the Lead Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured salamander shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken by the Designated Biologist:</p> <p>If the injury is minor or healing and the salamander is likely to survive, the salamander shall be released immediately in accordance with the Condition of Approval 8.20.</p> <p>If it is determined that the Covered Species has major or serious injuries as a result of Project-related activities the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by the CDFW and U.S. Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed, and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.12.</p>	ITP Condition # 8.5, 8.5.1, 8.5.2	Entire Project	Permittee	
60	<p>Seasonal Work Window. Permittee shall limit ground-disturbing Covered Activities involving construction and heavy equipment use (such as excavation, road construction, grading, trenching, contouring and culvert installation) to the following time periods ("seasonal work windows") until the expiration of this ITP:</p> <p>Upland Habitat: Between April 15 and October 31 (Dry Season);</p> <p>Aquatic Habitat: Between June 15 and October 31. Covered Activities may begin prior to June 15 if the stream in which work will occur has been dry for a minimum of 30 days prior to initiating work.</p>	ITP Condition # 8.6, 8.6.1, 8.6.2			

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
61	<p>Seasonal Work Window Extension. Permittee shall adhere to the seasonal work windows required in Condition of Approval 8.6 unless an expanded work window is approved by CDFW's Regional Representative. Permittee shall submit any requests for extensions at least 14 days prior to the desired date of construction or 14 days prior to the expiration of the seasonal work window. Any work for WTG installation conducted during the wet season shall be limited to construction work not involving ground disturbance and vehicles using completed main and interior gravel roads to gain access to the turbine pads. If such work during the wet season results in areas previously considered temporarily-disturbed (for example, crane pads) to be restored past December 15 of the year of the impact, then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (see Conditions of Approval 6.15 and 6.16) and an amendment to the ITP may be required. If work is approved by CDFW outside of the seasonal work windows required in Condition of Approval 8.6, the following conditions shall apply:</p> <p>Turbine pad area or any other work site located within 0.5 miles of Covered Species aquatic habitat, including where equipment will be stored overnight, shall be completely fenced with wildlife exclusion fencing per Condition of Approval 8.11. All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads.</p> <p>All work and vehicle travel shall be limited to the daylight hours from 30 minutes after sunrise until 30 minutes before sunset, to the maximum extent feasible. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.</p> <p>All steep-walled holes or trenches more than 6 inches deep shall be covered overnight with boards or metal plates placed flush to the ground.</p> <p>Erosion control such as straw wattles or silt fencing shall not be placed where they create a barrier to Covered Species movement between upland and aquatic habitat.</p>	ITP Condition 8.7, 8.7.1, 8.7.2, 8.7.3, 8.7.4	Entire Project	Permittee	
62	<p>Dry Season Work Restriction. During the Dry Season of April 15 to October 31 of each year until the expiration of this ITP, Permittee shall limit Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and contouring) to periods of low rainfall (less than 0.10 inches per 24-hour period). If rain exceeds 0.10 inches during a 24-hour period, work shall cease. Construction may resume 24 hours after the rain ceases when there is a less than a 60 percent (%) chance of precipitation in the 24-hour forecast, and humidity, as measured locally on-site under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept on-site and subject to inspection.</p>	ITP Condition # 8.8	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
63	<p>Daily Work Window. The California tiger salamander active season is defined as the period of time during which California tiger salamanders are above ground. California tiger salamander adults migrate to and from breeding ponds during the wet season. California tiger salamander metamorphs and juveniles migrate away from the ponds during the late spring, summer, and fall depending on pond hydroperiod and other variables. During the adult California tiger salamander migration/active season from November 1 to June 15, all Project earth-disturbing activities shall terminate 30 minutes before sunset and shall not resume until 30 minutes after sunrise with the exception of deliveries that cannot feasibly be made during the day due to size of delivery, traffic, or other constraints. Such deliveries shall include access within the Project Area via established roadways and unloading within existing graded areas. Limited exceptions to this schedule may occur if necessary to construct WTG towers or pour concrete foundations. Except when necessary for construction, or driver/ pedestrian safety, lighting of the Project Area by artificial lighting during nighttime hours shall be minimized to the maximum extent practicable. Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for the geographic area where the project is located. Permittee shall provide notification to CDFW at least 24 hours prior to conducting night-time activities.</p>	ITP Condition # 8.9	Entire Project	Permittee	
64	<p>Pre-activity Surveys. The Designated Biologist shall inspect all ruts and holes near root structures, foundations, abutments, etc. for California tiger salamander immediately prior to and during excavation or removal. A Designated biologist shall survey the open areas adjacent to ongoing construction. Multiple biologists may be necessary to survey the area appropriately. If a California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location (e.g. mouth of ground-squirrel burrow outside of the temporary barrier) per Condition of Approval 8.20 and monitor it until it is determined that it is not imperiled by predators or other dangers.</p>	ITP Condition # 8.10	Entire Project	Permittee	



	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
65	<p>Exclusion Fencing. If Covered Activities will occur during California tiger salamander migration periods, exclusion fencing shall be constructed in strategic locations and in and around all active work areas and staging areas within 2000 feet of all aquatic features. The barrier shall be designed to allow the California tiger salamander to leave the Project Area using a one-way funnel or other method approved by CDFW. Refuge opportunities, such as coverboards and/or pitfall traps, shall be placed along the fence where appropriate. Permittee shall coordinate with CDFW and USFWS on a fencing plan and shall submit the design to CDFW for approval no less than 30 days prior to the proposed start of Covered Activities. Exclusion fencing shall be installed prior to the start of Covered Activities in each area and placed within 10 feet of the edge of work areas or other appropriate distance in consultation with, and approved by, CDFW and USFWS. Permittee shall maintain the barrier throughout all construction activities. The Designated Biologist shall survey the area prior to installation of the fencing. The interior and exterior of the exclusion fencing shall be surveyed by the Designated Biologist at least once daily before 0900 each day to ensure that no California tiger salamanders are trapped against the fencing or under coverboards. Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. The Designated Biologist shall relocate any California tiger salamander found along the fence. The Permittee shall avoid damage to small mammal burrows to the maximum extent possible during installation of the exclusion fencing.</p> <p>The barrier shall remain in place until the Permittee completes all Covered Activities and all construction equipment has been removed from the active work areas.</p> <p>For Covered Activities involving excavation of a limited number of turbine foundations (approximately two) expected to be conducted in fall 2024, the fencing plan requirements shall be limited to installation of exclusion fencing, including cattle exclusion fencing, surrounding the excavated foundation holes, installation of cover boards and monitoring of the exclusion fence by the Designated Biologist prior to and after significant rain events. The Permittee shall ensure that the fence is functioning to prevent Covered Species from entering the excavations. The Permittee shall repair the fence as needed.</p>	ITP Condition # 8.11	Entire Project	Permittee	
66	<p>Delineation of Burrow Complexes. The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Conditions of Approval 8.10 and 8.13) and within 100 feet of the Project footprint with posted signs, posting stakes, flags, and/or rope or cord. Signs, stakes, flags, and/or rope shall be clearly distinguishable from markings used to delineate work areas.</p>	ITP Condition # 8.12			
67	<p>Pre-Construction Burrow Identification. The Designated Biologist shall mark all burrows in undeveloped grassland habitat within 10 feet of new roads, electrical collection lines, or turbine pads with flagging no-less-than five days prior to earthmoving activities in those areas. All burrows shall be avoided to the maximum extent practicable during earthmoving activities.</p>	ITP Condition # 8.13	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
68	Barriers to Movement. Permittee shall construct roadways that are within 1.3 miles of known or potential California tiger salamander breeding sites such that there are no steep curbs, berms, straw wattles, or dikes that could prevent California tiger salamander from crossing or exiting the roadway. If curbs/berms/straw wattles are necessary for safety and/or surface runoff, Permittee shall design and construct them to allow California tiger salamander to walk over them. If steep dikes are required, Permittee shall design and construct them to include over-side drains or curb/dike breaks spaced at intervals of 16.4 to 32.8 feet to allow California tiger salamander passage.	ITP Condition # 8.14	Entire Project	Permittee	
69	Trenching and Mowing. Prior to trenching, Permittee shall mow vegetation along the fence line to the width necessary to accommodate the trenching equipment and a walking buffer, to facilitate locating and avoiding burrows and California tiger salamanders that may be present within the Project area. The Designated Biologist will perform clearance surveys (refer to Condition of Approval 8.10) within the area that the Permittee will clear immediately prior to mowing. Permittee shall not disk or till vegetation.	ITP Condition # 8.15	Entire Project	Permittee	
70	Open Trenches. To prevent inadvertent entrapment of California tiger salamander during construction, the Designated Biologist shall check all excavated open holes, sumps and trenches for California tiger salamander no later than 0900 each day for trapped animals. If a California tiger salamander is trapped in these features, the Designated Biologist shall remove and relocate the animal(s) to a safe location within suitable habitat (see Condition of Approval 8.20) prior to the start of work activities at that site. At the close of each working day, the Designated Biologist shall ensure all excavated, steep-walled holes or trenches more than 6 inches deep are provided with one or more escape ramps constructed of earthen fill or wooden planks with a slope of 3:1 (run: rise). Before Permittee fills trenches or holes, the Designated Biologist shall thoroughly inspect them for trapped California tiger salamander. If a California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the individual as required by Condition of Approval 8.20.	ITP Condition # 8.16	Entire Project	Permittee	
71	Augering and Excavation. The Designated Biologist shall survey all augering and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.	ITP Condition # 8.17	Entire Project	Permittee	
72	Soil Stockpiles. Permittee shall place soil stockpiles where soil will not pass into potential California tiger salamander breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 et seq. Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.	ITP Condition # 8.18	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
73	California Tiger Salamander Checks. Before the start of work each morning, the Designated Biologist shall check for California tiger salamander individuals under all vehicles, equipment, materials, or otherwise suitable locations for salamanders to hide. Workers shall inspect under vehicles and equipment for California tiger salamander before the vehicles and equipment are moved. If a California tiger salamander is present, the worker shall notify the Designated Biologist. The Designated Biologist shall follow initial grading equipment to look for California tiger salamander. All ruts and holes near root structures, foundations, abutments, etc., shall be inspected for California tiger salamander prior to and during excavation or removal. If a California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the individual as required by Condition of Approval 8.20.	ITP Condition # 8.19	Entire Project	Permittee	
74	Decontamination of Clothing and Equipment. Any equipment that enters the water during construction shall be decontaminated before and after construction using USFWS guidance to prevent the spread of aquatic diseases and invasive aquatic species. All equipment parts that may come into contact with the water, such as vehicle treads, buckets, etc., shall be decontaminated. Repeat decontamination is required only if the equipment is removed from the site, used within a different aquatic feature, and returned to the Project Area. Decontamination shall take place in an upland location, and any chemicals used during decontamination shall be prevented from entering aquatic features. Workers shall also decontaminate waders, boots, and other clothing that comes in direct contact with the water.	ITP Condition # 8.21	Entire Project	Permittee	
75	Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a non-native barred tiger salamander ( <i>Ambystoma tigrinum mavortium</i> ) or California tiger salamander/non-native hybrid is found within the Project Area within 24 hours by calling CDFW's Regional Representative. CDFW. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Capture and Handling measures outlined in this ITP (see Condition of Approval 8.5). Permittee shall consult CDFW to determine measures to address non-native or hybrid populations.	ITP Condition # 8.22	Entire Project	Permittee	
76	Invasive Species. Any bullfrogs ( <i>Lithobates catesbeianus</i> ) encountered during construction or monitoring shall be permanently removed from the wild. Pursuant to Fish and Game Code, section 6854, it is unlawful to take bullfrogs using firearms of any caliber or type. CDFW may issue a permit to take and dispose of frogs under such limitations as the commission may prescribe (Fish and Game Code, § 6854). Permittee may not introduce predatory fishes (including but not limited to largemouth bass, redear sunfish, bluegill, catfish, mosquitofish, and fathead minnows) or amphibians (including but not limited to bullfrogs, barred tiger salamanders, and Arizona tiger salamanders).	ITP Condition # 8.23	Entire Project	Permittee	
77	Standard Protective Guidance for San Joaquin Kit Fox. At no time shall Permittee or its representatives capture, pursue, or otherwise attempt to handle a San Joaquin kit fox. Permittee shall follow USFWS' Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 2011).	ITP Condition # 8.24	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
78	Protection of San Joaquin Kit Fox Natal Dens. Permittee shall not excavate natal dens for San Joaquin kit fox until the pups and adults have vacated and only after receiving written permission from USFWS and CDFW. Permittee may destroy known dens only after three days of monitoring with tracking medium or an infra-red camera has determined that a San Joaquin kit fox is not present.	ITP Condition # 8.27	Entire Project	Permittee	
79	Destruction/Collapse of Potential San Joaquin Kit Fox Dens. Destruction of any potential San Joaquin kit fox dens shall be accomplished by the Designated Biologist by careful excavation until it is certain that no San Joaquin kit foxes are inside. The den should be fully excavated, filled with dirt, and compacted to ensure that San Joaquin kit foxes cannot re-enter or use the den during the construction period. If at any point during excavation a San Joaquin kit fox or kit fox signs is discovered inside the den, excavation shall cease immediately and monitoring of the den as described in ITP Condition of Approval 8.27 shall be resumed. Destruction of the den shall only be completed when, in the judgment of the Designated Biologist, the animal has escaped from or otherwise vacated the partially destroyed den.	ITP Condition # 8.28	Entire Project		
80	Covered Activity Seasonal Restrictions. Permittee shall not conduct Covered Activities during the breeding season, beginning February 1 to August 31, within 656 feet (200 meters) of any occupied burrow complexes until young have dispersed and are fledged, independently foraging, and no longer using the burrows or burrow complex, and/or the adults are no longer nesting. This buffer may be reduced pursuant to Conditions of Approval 8.33 and 8.34.	ITP Condition # 8.32	Entire Project	Permittee	
81	No-Disturbance Buffers. Permittee shall clearly delineate a no-disturbance buffer of 656 feet (200 meters) or more for high-disturbance activities, including but not limited to installation of turbines, use of heavy equipment such as cranes, and similar activities, around all known occupied or potential burrowing owl nesting, roosting, and satellite burrows or the entire burrow complex within and adjacent to 656 feet (200 meters) of the Project Area with posted markers demarking the area to avoid, using stakes, flags, and/or rope or cord to minimize the disturbance of burrowing owl habitat. The nesting season for western burrowing owl is defined as February 1 to August 31. During the non-nesting season from September 1 to January 31, Permittee shall delineate a no-disturbance buffer of at least 164 feet (50 meters) around all known occupied or potential burrowing owl burrows. The Designated Biologist may reduce the buffer distances based on the behavior of the owls pursuant to Condition of Approval 8.34 and with prior approval by the CDFW Representative. The Designated Biologist may also reduce the buffer distances for low to moderate-impact activities, such as vehicle traffic and use of staging areas. CDFW approval for reduced buffers shall be determined by construction type, activity, and duration; individual behavior; stage of reproductive cycle; and site conditions at each specific nesting burrow. Permittee shall change the method of marking the no-disturbance buffers if corvids, raptors, or other predators are observed perching on marking materials. Permittee shall delineate the no-disturbance buffer with different materials than those used to delineate the Project Area. Permittee shall remove and properly dispose of all materials used for delineation immediately upon completion of the Project.	ITP Condition # 8.33	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
82	Daily Monitoring. The Designated Biologist(s) shall be present at all times during Covered Activities to monitor the behavior of any burrowing owl at or within at least 656 feet (200 meters) of the Covered Activities and at least once daily. The Designated Biologist(s) shall have the authority to stop work and increase the buffers if the owls exhibit distress and/or abnormal behavior (e.g., excessive vocalizations, defensive flights at intruders, flushing frequently, or otherwise displaying agitated behavior) from Covered Activities. Permittee shall not resume Covered Activities until the Designated Biologist has consulted CDFW and both the Designated Biologist and CDFW confirm that the burrowing owl's behavior has normalized. Daily monitoring may cease when the burrow is vacant because the nest is abandoned; young have dispersed and are fledged, independently foraging, and no longer using the burrows or burrow complex; and/or the adults are no longer nesting at determined by the Designated Biologist.	ITP Condition # 8.34	Entire Project	Permittee	
83	No-Disturbance Buffer Reduction. The Permittee may submit a no-disturbance buffer reduction request in writing to the CDFW Representative to allow for burrow preservation where impacts can be reasonably avoided, and for burrows to be available to burrowing owls post-construction. Such requests should include visual burrow identification (e.g., flagging) and continued monitoring until Covered Activities are complete. The buffer reduction request shall include at a minimum a monitoring report from the Designated Biologist that documents the burrows for 60 minutes per day for 14 days to determine if the birds have not displayed any courtship behavior and are not in the process of egg-laying or incubation, or all juveniles from the occupied burrows have fledged and moved out of the Project Area.	ITP Condition # 8.35	Entire Project	Permittee	
84	Burrowing Owl Observation. Permittee shall ensure all workers inform the Designated Biologist if they encounter a burrowing owl within or near (at or within 656 feet (200 meters) any future or currently active construction work site within the Project Area. All Covered Activities with potential to take the burrowing owl as determined by the Designated Biologist shall cease until the animal moves away from activities on its own. The Designated Biologist or Representative shall contact the CDFW Regional Representative by phone or email within 24 hours of the observation. The Designated Biologist shall make every effort to locate the active burrow(s) and set up and maintain a no-disturbance buffer as specified in this ITP. If an occupied nest (with eggs or young) is observed within a future or currently active construction site, and a previously approved no-disturbance buffer cannot be feasibly implemented, the Designated Biologist shall immediately contact the CDFW Representative for consultation. If a burrowing owl is found injured or an occupied nest (with eggs or young) is confirmed to be abandoned, Permittee shall follow requirements described in Condition of Approval 7.11.2 and the CDFW-approved Burrow Exclusion, Excavation and Monitoring Plan (refer to Condition of Approval 8.39).	ITP Condition # 8.36	Entire Project	Permittee	
85	Entrapment Inspections. The Designated Biologist shall visually inspect any pipes, debris piles, culverts, pallet stacks, burrow exclusion installations, or similar structures with a diameter greater than 4.3 inches (11 centimeters) for burrowing owl before the material is moved, buried, or capped. The Designated Biologist shall inspect all open holes and trenches within the Project Area at a minimum of twice a day and immediately prior to backfilling. If any worker discovers that burrowing owl have become trapped, they shall halt Covered Activities and notify the Designated Biologist immediately. Project workers and the Designated Biologist shall allow the burrowing owl to escape unimpeded if possible, or a Designated Biologist shall move the burrowing owl out of harm's way before allowing work to resume (see Condition of Approval 7.11 if the owl is found to be injured).	ITP Condition # 8.37	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
86	<p>Detering Predator Attraction. Permittee shall avoid attracting burrowing owl predators to the Project Area. To the greatest extent feasible, Permittee shall modify Project-related tall structures, fences, or other materials that could be used as perches for ravens, great horned owls, hawks and eagles to discourage perching. 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. Permittee shall ensure all trash be removed from the Project Area or firmly secured daily. Large equipment that is not in use for multiple days shall be covered or stored away from burrowing owl complexes to prevent avian predators from using large equipment as perches.</p>	<p>ITP Condition # 8.38</p>	<p>Entire Project</p>	<p>Permittee</p>	

87	<p>Burrow Exclusion, Excavation and Monitoring Plan. Permittee shall avoid disturbing any known or potential burrowing owl burrows unless they are in an area of direct ground disturbance (e.g., grading areas, excavation areas) or the burrow location poses a risk of direct harm to burrowing owl individuals. Permittee shall ensure suitable habitat is present within approximately 328 feet (100 meters) of the original burrow prior to exclusion. Prior to any burrowing owl exclusion or burrow excavation, Permittee shall submit an Exclusion, Excavation and Monitoring Plan (Exclusion Plan) to CDFW for review and written approval 15 days, or other timeframe approved by CDFW, prior to any burrowing owl exclusion. The Exclusion Plan shall identify all known burrows including those that are occupied, unoccupied, and of unknown status. All burrows that cannot be avoided shall be clearly identified. The Exclusion Plan shall describe the methods by which the Permittee will exclude owls and excavate burrows..</p> <p>In addition, the Exclusion Plan shall include the following measures:</p> <ul style="list-style-type: none"> <li>• Permittee shall not exclude paired burrowing owl from burrows where there is evidence of activity (sign is present, burrow contains eggs and/or young, or owls have been seen at the entrance or carrying prey) during the nesting season (generally February 1 to August 31).</li> <li>• If naturally occurring suitable burrows are absent or in numbers insufficient to support owls within dispersal distance, artificial burrows may be installed (see Condition of Approval 8.40). If artificial burrows will be used, the Exclusion Plan shall describe construction and installation methods and specific locations.</li> <li>• Burrows that are outside the areas of direct ground disturbance but close enough to the work area that they may be dangerous for burrowing owls to inhabit shall remain intact and the Designated Biologist shall first monitor to determine vacancy, then block the entrance by installing an object (e.g., sandbags) approved in advance, in writing by CDFW, to prevent burrowing owl from entering and using the burrow during Covered Activities. The Designated Biologist shall remove the object immediately after Covered Activities are completed in that work area when the Designated Biologist has determined that potential resumed use of the burrow will not result in harm to burrowing owl. Permittee shall not destroy or modify burrows or exclude burrowing owl from burrows that are beyond the direct footprint of ground disturbance to preempt their use and burrow no-disturbance buffer establishment.</li> <li>• Exclusionary installations (such as one-way doors) shall be inspected daily to ensure they are functioning properly.</li> <li>• Permittee shall not excavate active burrowing owl burrows until the nestlings are fully fledged, are independently foraging, and are no longer dependent on the adults or burrow complex.</li> <li>• The Designated Biologist shall excavate potential or known burrowing owl burrows that cannot be avoided according to the Exclusion Plan only after the Designated Biologist has determined that a burrowing owl is not currently present following eviction/exclusion after at least two consecutive days of monitoring with tracking medium or an infra-red camera(s). Burrow excavation shall be accomplished by careful hand excavation of the entire length of the burrow, until it is certain no individuals are inside. Burrows shall then be filled with soil, and compacted to ensure that burrowing owl cannot reenter or use the burrow during Covered Activities. If the excavation process reveals burrowing owl eggs, young, or adults, then burrow excavation shall cease immediately and monitoring as described above shall be conducted/resumed. Permittee shall contact the CDFW Regional Representative by phone or email within 24 hours of the observation and get written guidance prior to proceeding with burrow filling if an individual burrowing owl does not vacate the partially excavated burrow within a reasonable timeframe.</li> </ul>	ITP Condition # 8.39	Entire Project	Permittee	
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	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
88	Artificial Burrows. If destruction of occupied burrows cannot be avoided and the Designated Biologist cannot determine that suitable unoccupied burrows exist outside of the impact area but close enough to be useful to excluded owls, Permittee shall install artificial burrows within approximately 328 feet (100 meters) of the original burrow prior to eviction of the burrows that will be excavated (or further if necessary, with written concurrence from CDFW). Permittee shall ensure that at least two suitable alternate burrows are available for each burrowing owl to be evicted. Permittee shall provide detailed plans for the location, construction, installation and maintenance of any artificial burrows in the Exclusion Plan (see Condition of Approval 8.39).	ITP Condition # 8.40	Entire Project	Permittee	
<b>POST-CONSTRUCTION</b>					
89	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.	ITP Condition # 6.29	Post-construction	Permittee	
90	Final Construction Phase Report. No later than 45 days after completion of all initial construction activities, including all required monitoring, Permittee shall provide CDFW with a Final Construction Phase Report. The Designated Biologist shall prepare the Final Construction Phase Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs during the construction phase; (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 during construction; (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.	ITP Condition # 7.8	Post-construction and after completion of mitigation	Permittee	
91	Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 7.9	Post-construction and after completion of mitigation	Permittee	
92	CDFW accepts the Final Mitigation Report as complete.		Post-construction	CDFW	



## Attachment 6

Amended Incidental Take Permit No. 2081-2021-006-03  
(Amendment No. 1)

### 1. The Authority section has been amended as follows:

This [Amended](#) California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, title 14, section 783.0 et seq. CESA prohibits the take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> 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.)

<b>Permittee:</b>	<b>Mulqueeney Wind Energy, LLC</b>
<b>Principal Officer:</b>	<b>Berk Gursoy, Vice President Project Development</b> <a href="mailto:Berk.Gursoy@brookfieldrenewable.com">Berk.Gursoy@brookfieldrenewable.com</a>
<b>Contact Person:</b>	<b>Kimberly Peterson, (646) 992-2410</b> <a href="mailto:Kimberly.Peterson@brookfieldrenewable.com">Kimberly.Peterson@brookfieldrenewable.com</a>
<b>Mailing Address:</b>	<b>200 Liberty Street, 14th Floor, New York, NY 10281</b>

### 2. The Amended ITP Background section has been amended as follows:

#### Amended ITP<sup>3</sup> Background

On January 22, 2021, Mulqueeney Wind Energy, LLC submitted a CESA ITP application to 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. Mulqueeney Wind Energy, LLC sought take coverage authorization for California tiger salamander (*Ambystoma californiense*) and San Joaquin kit fox (*Vulpes macrotis mutica*) associated with project-related impacts from the Mulqueeney Ranch Wind Repowering Project in Alameda County, California (Project).

On October 7, 2024, CDFW issued ITP No. 2081-2021-006-03 to Mulqueeney Wind Energy, LLC (Permittee) authorizing take of California tiger salamander and San Joaquin kit fox (collectively, the Covered Species) associated with and incidental to the Project. The Project as described in the ITP originally issued by CDFW includes repowering a previously decommissioned wind facility by constructing up to 19 new wind turbine generators with

<sup>1</sup>Pursuant to Fish and Game Code section 86, “‘take’ means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” (See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 [for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), “‘take’ ... means to catch, capture or kill”].)

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

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

generating capabilities of up to 4.5 megawatts (MW) each for a maximum of 80 MW. The Project also includes widening of existing roads and construction of new access roads, the creation of a temporary construction area, construction of a meteorological tower, installation of up to 17 IdentiFlight units, and the installation of underground electrical lines connecting the turbines to a new substation that will be built adjacent to Pacific Gas and Electric Company's (PG&E) Tesla substation.

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. As stated in the original ITP, the Project was expected to result in the following impact acreages to Covered Species: 26.7 acres of permanent impacts to grassland habitat and a temporary loss of 185.3 acres of grassland habitat for both species.

On December 11, 2024, Permittee submitted a request for a Major Amendment to ITP No. 2081-2021-006-03 (see Cal. Code Regs., § 783.6(c)(5)) and associated fees on December 26, 2024. The amendment request detailed the Mulqueeney Ranch Wind Repowering Project's potential for incidental take of western burrowing owl (*Athene cunicularia hypugaea*), its impacts on their habitat, and its potential indirect impacts to the species. The amendment request included adding western burrowing owl as a Covered Species in the ITP. Both the original and amended ITP cover impacts for construction of the Project only; impacts from the Operations and Maintenance phase of the Project Phase of the Project will be approximately 30 years and will be covered under ITP Number 2081-2024-045-03. Since issuance of the original ITP, on October 10, 2024, the California Fish and Game Commission designated western burrowing owl as a candidate species under CESA. The requested amendment includes western burrowing owl as a Covered Species includes the following Covered Activities: eviction (passive relocation) of non-nesting burrowing owls, nest disturbance during Project construction, temporary obstruction of unoccupied burrow entrances, burrow excavation, and injury or mortality of owls by vehicle or construction equipment during construction.

CDFW now amends and reissues this ITP including the revised provisions in this first Major Amendment (Collectively, the Amended ITP). The Amended ITP includes all of the operative provisions as of the effective date of this Amended ITP. Attachment 6 to this Amended ITP shows the specific red-line changes made to the original ITP as a result of this Major Amendment.

**3. The Effective Date and Expiration Date section has been amended as follows:**

This ITP is The original ITP's effective asdate was **October 7, 2024**. This remains the effective date for the original take authorization. This Amended ITP shall become effective upon execution by the Regional Manager for CDFW's Bay Delta Region. Unless renewed by CDFW, this Amended ITP and its authorization to take the Covered Species shall expire on **December 31, 2030**. This Amendment does not change the expiration date.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 7.9 of this ITP.

**4. The Project Location has been amended as follows:**

\* \* \*

Near the center, but not part, of the proposed Project area lies the Two Sisters Burrowing Owl Preserve, an approximately 155.76-acre property established as mitigation for western burrowing owl.

\* \* \*

**5. The Covered Species Subject to Take Authorization Provided by This ITP section has been amended as follows:**

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> <sup>4</sup>
1. California tiger salamander ( <i>Ambystoma californiense</i> )	Threatened <sup>5</sup>
2. San Joaquin kit fox ( <i>Vulpes macrotis mutica</i> )	Threatened <sup>6</sup>
<u>3. Western burrowing owl (<i>Athene cunicularia</i>)</u>	<u>Candidate</u> <sup>7</sup>

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

**6. The Impacts of the Taking on Covered Species section has amended as follows:**

\* \* \*

Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so, when individuals of the Covered Species are relocated out of harm’s way, captured during pond monitoring, or salvaged as required by this ITP. Capture and relocation of ~~California tiger salamander or eviction of San Joaquin kit fox~~ Covered Species could, absent implementation of protective measures, result in mortality, injury, and/or disease transmission to Covered Species, by individuals involved in the capture, eviction, and/or relocation effort. The areas where authorized take of the Covered Species is expected to occur include: the 4,605-acre Project site encompassing the 19 wind turbines and Project facilities, and along access routes, and at mitigation site(s) (collectively, the Project Area).

The Project is expected to cause the permanent loss of 26.7 acres and the temporary loss of 185.3 acres of grassland habitat for the Covered Species, for a total of loss of ~~211.3~~ 212 acres of grassland habitat for the Covered Species. All 212 acres of grassland habitat are considered habitat for the Covered Species. For California tiger salamander, these permanent and temporary impacts will be to upland habitat. For San Joaquin kit fox, these

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

<sup>5</sup> See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).

<sup>6</sup> See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(6)(E).

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

permanent and temporary impacts will be to foraging, denning and dispersal habitat. [For western burrowing owl, these permanent and temporary impacts will be to nesting, overwintering, and foraging habitat. Direct impacts to western burrowing owl may also include eviction \(passive relocation\) of burrowing owls from their burrows specifically, obstructing burrow entrances resulting in disoriented behavior leading to vulnerability to nearby predators, and injury or mortality resulting from eviction. Covered Activities could also result in abandonment of nesting or overwintering sites and take of adult owls, eggs and/or young, and injury or mortality caused by vehicle strikes, collapse of burrows, entrapment within trenches, holes, or construction supplies.](#)

\* \* \*

For California tiger salamanders, indirect impacts include but are not limited to: effects resulting from construction-related ground-disturbing activities that degrade nearby aquatic breeding habitat (for example, Pond K/P-010 and Pond N/P-008). Exposed soil surfaces left unvegetated have the potential to lead to sedimentation of adjacent aquatic habitat that may provide suitable breeding, foraging, and dispersal habitat for California tiger salamander. Project infrastructure (e.g., roads and turbine footings), if not maintained, could result in erosion and gulying that could deliver larger sediment loads to aquatic habitat downslope of these areas. Project activities also have the potential to result in degradation of water quality from runoff of petroleum-based products associated with equipment and vehicles used during construction ~~and O&M~~. Exposure pathways could include inhalation, dermal contact, or direct ingestion. Exposure to contaminants can cause chronic or acute effects that could impair health and productivity and could lead to mortality. Carcinogenic substances could cause genetic damage resulting in sterility, reduced productivity, or reduced fitness of progeny.

For [bothall](#) Covered Species, indirect impacts include, but are not limited to, increases in stress resulting from Project noise, artificial lighting, vibrations, capture and relocation, and increased human proximity; displacement from preferred habitat by structural changes and Project activities; changes in movement and reductions in habitat connectivity (for example, through introduction or lack of management of non-native grass species resulting in thatch build and inhibition of California tiger salamander breeding migration); increased competition for food and space; increased vulnerability to predation; reduction in prey availability through rodent control and/or pesticide application (including but not limited to rodenticide, insecticide, and herbicide); and long-term effects due to increased pollution.

**7. Incidental Take Authorization of Covered Species has been amended as follows:**

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for capture and relocation of Covered Species as authorized by this ITP. [Take resulting from the O&M Phase of the Project will be covered under ITP Number 2081-2024-045-03.](#)

**8. Conditions of Approval have been amended as follows:**

\* \* \*

**7.11.2** Western Burrowing Owl Mortality, Injury and Nest Abandonment. If a burrowing owl carcass is found, Permittee shall notify the CDFW Regional Representative and Krysta Rogers (Krysta.Rogers@wildlife.ca.gov) at the CDFW Wildlife Health Laboratory, via email within 24 hours of the carcass discovery. The Designated Biologist or Designated Representative shall collect the carcass and place it in a clean, sealed, plastic bag with a specimen label, and temporarily store in a freezer. The Designated Biologist or Designated Representative shall obtain packing and transportation or shipping instructions from the Wildlife Health Laboratory, and deliver the specimen within 60 days of discovery to the address below:

CDFW Wildlife Health Laboratory  
Avian Investigations  
Attention: Krysta Rogers  
1701 Nimbus Road, Suite D  
Rancho Cordova, CA 95670

If a burrowing owl is found injured, the Designated Biologist shall immediately notify the CDFW Regional Representative at Brenda.Blinn@wildlife.ca.gov and by phone at (707) 339-0334 and shall transport the injured individual to a CDFW-approved wildlife rehabilitation center or veterinary facility.

The initial notification to CDFW shall include information regarding the location, species, number of animals taken or injured, and if injured, the facility to which the individual was transported. Following initial notification, Permittee shall send the CDFW Regional Representative a written report within two calendar days. The report shall include the common and scientific name, date and time of the finding or incident, geo-referenced location of the animal or carcass (Project name, County, GPS location, and GPS datum), sex (if known), life stage/age class (if known), observer name and contact information, ITP number, a photograph (if possible), explanation as to cause of take or injury, and any other pertinent information. The Designated Biologist or Designated Representative shall provide weekly updates on the status of the rehabilitation facility's treatment of the individual.

If nestling(s) or egg(s) are abandoned, the Designated Biologist shall recover the nestling(s) and or egg(s) and immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall bear any cost associated with care and recovery of any injured burrowing owl adults, nestling(s) or egg(s) and hacking (controlled release of captive reared young), and follow the notification and reporting requirements described above.

\* \* \*

**8.1. Inspection of Pipes and Culverts.** All construction pipes, culverts, or similar structures with a diameter of 2 inches or greater that are stored in the Project Area for one or more overnight periods shall be either securely capped prior to storage or thoroughly inspected by the Designated Biologist(s) and/or the construction foreman/manager for

the Covered Species or other animals before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a California tiger salamander is found, it may be relocated as described in Condition of Approval 8.20. If a San Joaquin kit fox or [western burrowing owl](#) is found, it shall not be handled but shall be allowed to passively move away from the work area (see Condition 8.24).

\* \* \*

### [Western Burrowing Owl](#)

[8.29 Protocol-level Surveys. Prior to starting construction-related Covered Activities, the Designated Biologist shall complete protocol-level overwintering and/or nesting surveys following the methodology described in the Staff Report on Burrowing Owl Mitigation, Appendix D \(2012\), found at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>. Surveys shall include a minimum of four visits and shall consist of walking line transects spaced 23 feet to 66 feet \(7 to 20 meters\) apart, or as close to this method as the terrain allows. The four survey visits shall include at least one survey between February 15 and April 15, and a minimum of three surveys at least three weeks apart between April 15 and July 15 with at least one survey after June 15. If construction is scheduled to commence by April 15, 2025 \(refer to Condition of Approval 8.6\) then the Designated Biologist shall conduct a minimum of one survey prior to the start of construction. If construction is scheduled to commence after April 15, 2025, the Designated Biologist shall conduct a sufficient number of surveys based on the date of the start of construction in consultation with the CDFW Representative. The Designated Biologist shall submit the results of the survey to CDFW at least 15 days prior, or other timeframe approved by CDFW, to beginning Covered Activities or within 24 hours if surveys overlap with the pre-construction avoidance surveys \(refer to Condition of Approval 8.30\).](#)

[8.30 Burrow Complex Map. Within 15 days prior to starting construction-related Covered Activities, or other timeframe approved by CDFW, the Designated Biologist shall provide to CDFW a KMZ map of the burrowing owl burrow complex\(es\) and atypical burrows \(e.g. culverts, buckled concrete, etc.\). The map shall be at a scale of 1:24,000 or finer to show details and shall show locations of all burrowing owl sightings and labeled if sightings were potential burrows, occupied burrows, satellite burrows, areas of concentrated burrows, and burrowing owl sign. Locations documented by use of GPS coordinates must be collected in NAD83 datum. The map shall include an outline of the Project Area. The map shall include a title, north arrow, scale bar, and legend.](#)

[8.31 Pre-construction Avoidance Surveys. No more than 14 days prior to beginning construction-related Covered Activities, the Designated Biologist shall conduct at least two surveys using the methods described in the CDFW Staff Report on Burrowing Owl Mitigation, Appendix D \(2012\) or other appropriate method if agreed upon in writing by CDFW, at least seven days apart, with the final survey conducted no more than 48 hours prior to beginning Covered Activities. Pre-construction surveys may be conducted as part of the protocol-level surveys described in Condition of Approval 8.29. The Designated Biologist shall submit the results of the survey to CDFW within 24 hours prior to beginning Covered Activities. If changes in burrowing owl presence](#)

are detected (e.g., burrowing owl have moved onsite or changed burrow use), the Designated Biologist shall contact the CDFW Regional Representative by phone or email within 24 hours of the observation to consult on appropriate measures to avoid or minimize impacts of the Project to burrowing owl. If a lapse in project-related work of 14 calendar days or longer occurs, Permittee shall contact the CDFW Regional Representative by phone or email and may be required to conduct additional surveys before work may be reinitiated.

8.32 Covered Activity Seasonal Restrictions. Permittee shall not conduct Covered Activities during the breeding season, beginning February 1 to August 31, within 656 feet (200 meters) of any nesting owls until young have dispersed and are fledged, independently foraging, and no longer using the burrows or burrow complex, and/or the adults are no longer nesting. This buffer may be reduced pursuant to Conditions of Approval 8.33 and 8.34.

8.33 No-Disturbance Buffers. Permittee shall clearly delineate a no-disturbance buffer of 656 feet (200 meters) or more for high-disturbance activities, including but not limited to installation of turbines, use of heavy equipment such as cranes, and similar activities, around all known occupied or potential burrowing owl nesting, roosting, and satellite burrows or the entire burrow complex within and adjacent to 656 ft (200 meters) of the Project Area with posted markers demarking the area to avoid, using stakes, flags, and/or rope or cord to minimize the disturbance of burrowing owl habitat. The nesting season for western burrowing owl is defined as February 1 to August 31. During the non-nesting season from September 1 to January 31, Permittee shall delineate a no-disturbance buffer of at least 164 feet (50 meters) around all known occupied or potential burrowing owl burrows. The Designated Biologist may reduce the buffer distances based on the behavior of the owls pursuant to Condition of Approval 8.34 and with prior approval by the CDFW Representative. The Designated Biologist may also reduce the buffer distances for low to moderate-impact activities, such as vehicle traffic and use of staging areas. CDFW approval for reduced buffers shall be determined by construction type, activity, and duration; individual behavior; stage of reproductive cycle; and site conditions at each specific nesting burrow. Permittee shall change the method of marking the no-disturbance buffers if corvids, raptors, or other predators are observed perching on marking materials. Permittee shall delineate the no-disturbance buffer with different materials than those used to delineate the Project Area. Permittee shall remove and properly dispose of all materials used for delineation immediately upon completion of the Project.

8.34 Daily Monitoring. The Designated Biologist(s) shall be present at all times during Covered Activities to monitor the behavior of any burrowing owl at or within at least 656 ft (200 meters) of the Covered Activities and at least once daily. The Designated Biologist(s) shall have the authority to stop work and increase the buffers if the owls exhibit distress and/or abnormal behavior (e.g., excessive vocalizations, defensive flights at intruders, flushing frequently, or otherwise displaying agitated behavior) from Covered Activities. Permittee shall not resume Covered Activities until the Designated Biologist has consulted CDFW and both the Designated Biologist and CDFW confirm that the burrowing owl's behavior has normalized. Daily monitoring may cease when the burrow is vacant because the nest is abandoned; young have dispersed and are

fledged, independently foraging, and no longer using the burrows or burrow complex; and/or the adults are no longer nesting at determined by the Designated Biologist.

- 8.35 No-Disturbance Buffer Reduction. The Permittee may submit a no-disturbance buffer reduction request in writing to the CDFW Regional Representative to allow for burrow preservation where impacts can be reasonably avoided, and for burrows to be available to burrowing owls post-construction. Such requests should include visual burrow identification (e.g., flagging) and continued monitoring until Covered Activities are complete. The buffer reduction request shall include at a minimum a monitoring report from the Designated Biologist that documents the burrows for 60 minutes per day for 14 days to determine if the birds have not displayed any courtship behavior and are not in the process of egg-laying or incubation, or all juveniles from the occupied burrows have fledged and moved out of the Project Area.
- 8.36 Burrowing Owl Observation. Permittee shall ensure all workers inform the Designated Biologist if they encounter a burrowing owl within or near (at or within 656 feet (200 meters) any future or currently active construction work site within the Project Area. All Covered Activities with potential to take the burrowing owl as determined by the Designated Biologist shall cease until the animal moves away from activities on its own. The Designated Biologist or Representative shall contact the CDFW Regional Representative by phone or email within 24 hours of the observation. The Designated Biologist shall make every effort to locate the active burrow(s) and set up and maintain a no-disturbance buffer as specified in this ITP. If an occupied nest (with eggs or young) is observed within a future or currently active construction site, and a previously approved no-disturbance buffer cannot be feasibly implemented, the Designated Biologist shall immediately contact the CDFW Representative for consultation. If a burrowing owl is found injured or an occupied nest (with eggs or young) is confirmed to be abandoned, Permittee shall follow requirements described in Condition of Approval 7.11.2 and the CDFW-approved Burrow Exclusion, Excavation and Monitoring Plan (refer to Condition of Approval 8.39).
- 8.37 Entrapment Inspections. The Designated Biologist shall visually inspect any pipes, debris piles, culverts, pallet stacks, burrow exclusion installations, or similar structures with a diameter greater than 4.3 inches (11 centimeters) for burrowing owl before the material is moved, buried, or capped. The Designated Biologist shall inspect all open holes and trenches within the Project Area at a minimum of twice a day and immediately prior to backfilling. If any worker discovers that burrowing owl have become trapped, they shall halt Covered Activities and notify the Designated Biologist immediately. Project workers and the Designated Biologist shall allow the burrowing owl to escape unimpeded if possible, or a Designated Biologist shall move the burrowing owl out of harm's way before allowing work to resume see Condition of Approval 7.11 if the owl is found to be injured).
- 8.38 Detering Predator Attraction. Permittee shall avoid attracting burrowing owl predators to the Project Area. To the greatest extent feasible, Permittee shall modify Project-related tall structures, fences, or other materials that could be used as perches for ravens, great horned owls, hawks and eagles to discourage perching. 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. Permittee shall ensure all trash be removed from the Project Area or firmly secured daily. Large equipment that is not in use for multiple days shall be covered or stored away from burrowing owl complexes to prevent avian predators from using large equipment as perches.

8.39 Burrow Exclusion, Excavation and Monitoring Plan. Permittee shall avoid disturbing any known or potential burrowing owl burrows unless they are in an area of direct ground disturbance (e.g., grading areas, excavation areas) or the burrow location poses a risk of direct harm to burrowing owl individuals. Permittee shall ensure suitable habitat is present within approximately 328 feet (100 meters) of the original burrow prior to exclusion. Prior to any burrowing owl exclusion or burrow excavation, Permittee shall submit an Exclusion, Excavation and Monitoring Plan (Exclusion Plan) to CDFW for review and written approval 15 days, or other timeframe approved by CDFW, prior to any burrowing owl exclusion. The Exclusion Plan shall identify all known burrows including those that are occupied, unoccupied, and of unknown status. All burrows that cannot be avoided shall be clearly identified. The Exclusion Plan shall describe the methods by which the Permittee will exclude owls and excavate burrows.

In addition, the Exclusion Plan shall include the following measures:

- Permittee shall not exclude paired burrowing owl from burrows where there is evidence of activity (sign is present, burrow contains eggs and/or young, or owls have been seen at the entrance or carrying prey) during the nesting season (generally February 1 to August 31).
- If naturally occurring suitable burrows are absent or in numbers insufficient to support owls within dispersal distance, artificial burrows may be installed (see Condition of Approval 8.40). If artificial burrows will be used, the Exclusion Plan shall describe construction and installation methods and specific locations.
- Burrows that are outside the areas of direct ground disturbance but close enough to the work area that they may be dangerous for burrowing owls to inhabit shall remain intact and the Designated Biologist shall first monitor to determine vacancy, then block the entrance by installing an object (e.g., sandbags) approved in advance, in writing by CDFW, to prevent burrowing owl from entering and using the burrow during Covered Activities. The Designated Biologist shall remove the object immediately after Covered Activities are completed in that work area when the Designated Biologist has determined that potential resumed use of the burrow will not result in harm to burrowing owl. Permittee shall not destroy or modify burrows or exclude burrowing owl from burrows that are beyond the direct footprint of ground disturbance to preempt their use and burrow no-disturbance buffer establishment.
- Exclusionary installations (such as one-way doors) shall be inspected daily to ensure they are functioning properly.

- Permittee shall not excavate active burrowing owl burrows until the nestlings are fully fledged, are independently foraging, and are no longer dependent on the adults or burrow complex.
- The Designated Biologist shall excavate potential or known burrowing owl burrows that cannot be avoided according to the Exclusion Plan only after the Designated Biologist has determined that a burrowing owl is not currently present following eviction/exclusion after at least two consecutive days of monitoring with tracking medium or an infra-red camera(s). Burrow excavation shall be accomplished by careful hand excavation of the entire length of the burrow, until it is certain no individuals are inside. Burrows shall then be filled with soil, and compacted to ensure that burrowing owl cannot reenter or use the burrow during Covered Activities. If the excavation process reveals burrowing owl eggs, young, or adults, then burrow excavation shall cease immediately and monitoring as described above shall be conducted/resumed. Permittee shall contact the CDFW Regional Representative by phone or email within 24 hours of the observation and get written guidance prior to proceeding with burrow filling if an individual burrowing owl does not vacate the partially excavated burrow within a reasonable timeframe.

8.40 Artificial Burrows. If destruction of occupied burrows cannot be avoided and the Designated Biologist cannot determine that suitable unoccupied burrows exist outside of the impact area but close enough to be useful to excluded owls, Permittee shall install artificial burrows within approximately 328 feet (100 meters) of the original burrow prior to eviction of the burrows that will be excavated (or further if necessary, with written concurrence from CDFW). Permittee shall ensure that at least two suitable alternate burrows are available for each burrowing owl to be evicted. Permittee shall provide detailed plans for the location, construction, installation and maintenance of any artificial burrows in the Exclusion Plan (see Condition of Approval 8.39).

**9.0 Habitat Management Land Acquisition and Restoration:** CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on 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.

#### *Construction and Maintenance*

To meet this requirement for temporary and permanent loss of habitat, the Permittee shall either purchase 265.4 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 9.2 below within the East Alameda County Conservation Strategy (EACCS) CTS North mitigation area (Chapter 3, Figure 3-10, dated October 2010) OR shall provide for both the permanent protection and management of 265.4 acres of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below.

The HM lands for California tiger salamander habitat, San Joaquin kit fox habitat, and burrowing owl habitat may be combined if the habitat is suitable for all three Covered Species and approved by CDFW.

\* \* \*

**9. The Compliance with the California Environmental Quality Act section has been amended as follows:**

\* \* \*

Furthermore, CDFW finds that adding western burrowing owl to the Covered Species in this Amended ITP does not result in the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163. While western burrowing owl was not considered a candidate for listing under CESA at the time of the PEIR's certification, it does analyze the Project's impacts and includes measures to avoid, minimize, and mitigate impacts on the species. Additionally, a Subsequent EIR (SEIR) and an addendum to the SEIR were prepared in April 2021 and March 2024 respectively, for the Project, and both documents discuss Project impacts to burrowing owl and include measures to avoid, minimize, and mitigate impacts on the species.

**10. The Findings Pursuant to CESA section has been amended as follows:**

\* \* \*

Amendment Findings

CDFW finds that this Amendment is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5). Issuance of this Amendment will increase the amount of permitted take of Covered Species compared to the Project as originally approved by adding western burrowing owl to the list of Covered Species; however, by implementing avoidance and minimization measures specific to western burrowing owl and requiring compensatory mitigation in the form of conserving western burrowing owl habitat, it is not expected that this Amendment will increase Project impacts on these species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)). Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

**11. The Attachments section has been amended as follows:**

- |              |  |
|--------------|--|
| FIGURE 1     | Map of Project   |
| ATTACHMENT 1 | <u>Amended</u> Mitigation Monitoring and Reporting Program |
| ATTACHMENT 2 | Biologist Resume Form                                      |
| ATTACHMENT 3 | Amphibian Restraint and Handling                           |

ATTACHMENT 4

Letter of Credit Form

ATTACHMENT 5

Mitigation Payment Transmittal Form

ATTACHMENT 6

Major Amendment No. 1 with Track Changes