



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. 2081-2014-034-03  
(Amendment 3)**

**GOLDEN HILLS ENERGY FACILITY REPOWERING PROJECT**

**I. Authority:**

This Amended California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the 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> CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

<b>Permittee:</b>	<b>Golden Hills Wind, LLC/Daniel Neville, Project Director-Renewable Development</b>
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<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.

## II. Amended ITP<sup>3</sup> Background:

On April 8, 2015, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2014-034-03 (ITP) to Golden Hills Wind LLC (Permittee) authorizing take of California tiger salamander (*Ambystoma californiense*) and San Joaquin kit fox (*Vulpes macrotis mutica*) (collectively, the Covered Species) associated with and incidental to the Golden Hills Energy Facility Repowering Project in Alameda County, California (Project). The Project as described in the ITP originally issued by CDFW included repowering the existing wind energy facility to replace outdated wind turbine generators (WTG) with fewer and more efficient WTGs. The Project involved decommissioning a maximum of 775 existing WTGs and repowering by installing up to 48 new WTGs at new pad sites. The Project also included building new access roads, widening existing roads, constructing new laydown yards, installing roadside rock-lined ditches and underground electrical collector lines, installing meteorological towers, and improving related infrastructure. Ground-disturbing work associated with Project repowering and associated activities was completed in October 2015 and turbine assembly was completed in early 2016. After repowering, the Project was expected to have up to 81.6 megawatts (MW) of installed capacity but it increased to 85.92 MW post-construction.

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 San Joaquin kit fox and California tiger salamander habitat: 50.9 acres of permanent habitat loss (49.9 acres of upland habitat and 1.01 acres of aquatic habitat) and 204.5 acres of temporary upland habitat loss.

On April 23, 2018, CDFW approved Major Amendment 1 which corrected the name of the Permittee and mailing address, allowed for pond creation, increased take authorization, increased the amount of compensatory mitigation required, extended the timeframe for securing the additional compensatory mitigation, and increased the number of acres of temporary loss of Covered Species habitat that the Permittee is required to restore from 204.5 acres to 354.4 acres.

As compensatory mitigation for the Project's impacts, Permittee established the Golden Hills Ecological Preserve (GHEP) which was protected in perpetuity under two conservation easements [Sweet Ranch parcel on October 10, 2018 and Alameda County Waste Management Authority (ACWMA) parcel on December 21, 2018]. The GHEP is a total of approximately 523.61 acres in size. A total of approximately 0.49 acre of suitable California tiger salamander breeding habitat was proposed to be created (Pond S-1) at the GHEP –

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

Sweet Ranch and enhanced at GHEP - ACWMA.

After the recordation of the GHEP conservation easements, it was determined that creation of the 0.49 acre of suitable pond breeding habitat on GHEP-Sweet Ranch was not feasible due to site constraints that were incorrectly evaluated during the original pond conceptual design process. The modified development plan for Pond S-1 re-established 0.03 acres of aquatic habitat at Pond S-1, which is consistent with the historic pond at this location. Permittee proposed to provide supplemental aquatic habitat mitigation for the Project at an off-site location protected by a conservation easement. In addition, an approximately 3-acre boundary discrepancy was discovered on the northern boundary at GHEP-Sweet Ranch.

On June 8, 2022, CDFW approved Major Amendment 2, which authorized additional temporary (11.2 acres) and permanent (0.012 acres) impacts associated with the Golden Hills Transmission Line Wildfire Mitigation Project (Wildfire Mitigation Project). The Amendment also describes the changes to the GHEP-Sweet Ranch aquatic breeding habitat compensation and boundary adjustments with proposed compensation for the shortfall at an off-site location as described above. In addition, Amendment 2 updated Permittee contact information and updated the required compensatory mitigation.

On December 12, 2024, CDFW received a request from the Permittee for a major amendment to the ITP, as amended, and on December 31, 2024, CDFW received the corresponding fee payment. Permittee requests to decrease the total impacts from the Wildfire Mitigation Project from 11.2 acres to 6.39 acres of temporary impacts and from 0.012 acres to 0.003 acres of permanent impacts, add maintenance activities as a Covered Activity, increase the temporary impact acreage of 8.0 acres to include maintenance activities, extend the timeframe for the Permittee to acquire compensatory mitigation, increase the amount of compensatory mitigation and Security, and extend the permit term.

CDFW now reissues this ITP including the revised provisions in all previous and this third Major Amendment (collectively, the Amended ITP). The Amended ITP includes all the operative provisions as of the effective date of this Amended ITP. Attachment 5 to this Amended ITP shows the specific red-line changes made to the original ITP as a result of this Major Amendment.

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

The original ITP's effective date was April 8, 2015. 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, 2035**. This ITP will renew for an additional 10-year term after that date so long as the Permittee satisfies the terms section below ("Permit Term") and receives the requisite authorization from CDFW under that section. Any renewal terms may only extend this ITP and its incidental take authorization to a final date of **December 31, 2045**.

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#### **IV. Permit Term:**

This ITP and its take authorization may be renewed for an additional 10-year term beyond the expiration date above, consistent with the terms of this section. If Permittee seeks a renewal under this section, it will prepare and submit to CDFW a timely and complete 10-year Compliance Report consistent with the requirements of this section at least 180 days prior to the expiration date of this ITP or the expiration of any subsequent 10-year renewal term, whichever is applicable.

The 10-year Compliance Report shall include, at a minimum, the following information:

1. A list of maintenance and repair projects completed over the prior 10-year period, including any projects that are currently in progress;
2. Acreages of impacts to Covered Species habitat(s) over the prior 10-year period, along with GIS mapping depicting impacts to Covered Species habitat(s) over the last ten years;
3. Total acres and GIS mapping depicting Habitat Management lands that were preserved both during the last 10-year period and since the permit was executed;
4. Total acres and GIS mapping depicting on-site restoration of temporarily impacted Covered Species habitat pursuant to Condition of Approval 6.14;
5. Number of individuals for each of the Covered Species known to be taken or relocated during the last 10-year period;
6. A copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure;
7. An assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing, and mitigating Project impacts;
8. An assessment of whether the Covered Activities and Project Description for future Repairs and Maintenance are still accurate;
9. Any new information relevant to the conservation of the Covered Species and/or to the Project Area.

Permittee shall meet and confer with CDFW within 60 days after the 10-year Compliance Report submittal to discuss the report and any outstanding or reasonably foreseeable ITP compliance issues. Within 30 days following that meeting, if CDFW determines that there are any outstanding or reasonably foreseeable ITP compliance issues, CDFW shall provide a letter describing those ITP compliance issues and what actions CDFW finds are necessary for the Permittee to remain in or come into compliance with the terms of this ITP. Within 30

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days of receiving CDFW's letter, the Permittee shall provide CDFW a written response describing the remedial actions that will be taken by the Permittee to resolve any actual or potential compliance issues. Permittee shall confer with CDFW to confirm the proposed remedial actions by the Permittee are designed to bring the Permittee into compliance with the terms of the ITP. If CDFW determines that there are either no outstanding ITP compliance issues or that remedial actions proposed by the Permittee under this section are designed to bring the Permittee into compliance with this ITP and/or CESA, CDFW shall provide a letter extending the ITP term for an additional 10-year term, not to exceed a final expiration date of December 31, 2045. CDFW may require an amendment to this ITP if it determines such action is either necessary to enforce the proposed remedial actions or would otherwise be necessary under the circumstances. In particular, 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, the Permittee shall submit a request for an amendment pursuant to Title 14, Section 783.6 of the California Code of Regulations and associated fee based on the fee schedule at time of submittal.

If the Permittee fails to submit a timely and complete 10-year Compliance Report, substantially fails to meet the requirements, standards, and/or timelines in this section, or if CDFW is unable to determine that proposed remedial actions by the Permittee are designed to bring the Permittee into compliance with the terms of this ITP and/or CESA, this ITP will automatically expire as of the date listed in Section II, above, or the terms of the most recent renewal letter from CDFW under this section, whichever is applicable.

Nothing in this section shall be construed as any limitation whatsoever on CDFW's authority to enforce the terms of this ITP and/or the requirements of CESA and associated regulations as they apply to the Permittee and/or the Project.

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.

## **V. Project Location:**

The Golden Hills Energy Facility Repowering Project (Project) is located approximately 8 miles east of the City of Livermore in Alameda County within the Altamont Pass Wind Resource Area (APWRA) (see Figure 1). The Project boundary comprises approximately 4,439 acres encompassing all or portions of 38 land ownership parcels. The Project is located at approximately 37.710328 latitude and -121.646445 longitude (Decimal Degrees; NAD 83 or WGS 84). The Project site is bounded by Interstate 580 (I-580) to the north, Patterson Pass Road to the south, Midway Road to the east and North Flynn Road to the west. Ingress/egress to the Project site is via North Flynn Road and Patterson Pass Road.

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Golden Hills Ecological Preserve (GHEP). The GHEP – Sweet Ranch and GHEP – Alameda County Waste Management Authority (ACWMA) are proposed mitigation locations located in rural northeastern Alameda County, California on the United States Geological Survey (USGS) quadrangles Altamont and Midway. (Amendment Figure 1-1). The GHEP – Sweet Ranch is approximately 8 miles west of the City of Tracy and 4.5 miles east of the City of Livermore in Alameda County. Regional access to the site is via Interstate 580 (I-580). Flynn Road traverses the northern boundaries of the GHEP – Sweet Ranch, which is the only major public road providing local access to the preserve. GHEP – ACWMA is located immediately south of Sweet Ranch and is accessed via Patterson Pass Road.

## **VI. Project Description:**

The Project includes repowering the existing wind energy facility to replace outdated wind turbine generators (WTG) with fewer and more efficient WTGs. The Project involves decommissioning a maximum of 775 existing WTGs and repowering by installing up to 48 new WTGs at new pad sites. After repowering, the Project will have up to 81.6 megawatts (MW) of installed capacity. The Project includes building new access roads, widening existing roads, constructing new laydown yards, installing roadside rock-lined ditches and underground electrical collector lines, installing meteorological towers, and improving related infrastructure.

### *Decommissioning of Existing Wind Turbines*

A total of 775 existing WTGs, including existing transformers and associated electrical equipment within the existing wind facility, will be removed prior to repowering. The existing WTG foundations are composed of a concrete pier or pad (also known as footings) with approximately 10 feet of drain rock placed around each foundation. A small crane will be stationed at each turbine tower on existing roads and will dismantle the turbine components which will then be placed onto a flatbed truck and transported off-site. The existing turbine foundations will be decommissioned using an excavator or backhoe to dig a trench perpendicular to the foundation within the existing turbine pad. Foundations will be dropped into the trench so that no part of the structure is within three feet of grade. Disturbed native soils would be used as backfill and the affected area will be minimally graded (smoothed) and reseeded with a native seed mix. The existing underground collection system will remain in place and will not be excavated.

### *Installation of Wind Turbines and Related Infrastructure*

Concurrent with, or following, decommissioning activities, up to 48 WTGs will be installed. Each WTG includes three main parts, namely, the tower, nacelle and rotor that will be assembled and installed on-site by a track-mounted crane. Three new, free-standing monopole meteorological towers, each approximately 240 feet in height will also be installed. Geotechnical work will be conducted prior to installation of turbine pads and foundations to identify the appropriate and specific turbine foundation design. The geotechnical analysis will

occur at each turbine location and entail auger and/or core drilling using a truck mounted drill rig. Drilling fluids will consist of water or will be avoided. The geotechnical analysis will be conducted within the same footprint as the turbine pad or staging area to be constructed.

Each WTG foundation will require an excavation of up to approximately 8 to 10 feet deep and up to 60 feet in diameter with foundations constructed of steel-reinforced concrete. Foundations will then be buried and backfilled with the material excavated from the site. The top of the foundation will rise approximately one foot above grade. The base of the turbine will include a compacted earth rectangular area approximately 150 feet by 220 feet that will serve as a crane pad. A 10-foot gravel ring will surround the turbine base.

### *Roadway Construction and Grading*

New gravel roads will be constructed and existing roadway alignments will be redesigned in order to accommodate large equipment during the installation of WTGs. No new roads will be built during the decommissioning phase. The existing roadway system consists primarily of gravel access roads that are up to 20 feet wide. The interior road system will follow existing roadway alignments where possible, but grade adjustments will be necessary. Existing roads will be widened and intersections along North Flynn Road will be improved.

Main (permanent) gravel roads are those that provide access throughout the Project and will be used for the majority of the construction-related traffic. Two new gravel entrance roads will be constructed from the paved sections of North Flynn Road. Main roads will also be used by landowners to access ranching facilities. Work on all-weather gravel roads will include adjusting drainage inlets to grade and installing roadside rock-lined ditches. Interior (secondary) roads will be built to access the new WTG sites, and will dead-end at the new turbine sites. Both main access and interior roads will include 32-foot-wide surfaces, including 8-foot-wide shoulders, constructed using cut materials as fill. General cut-and-fill slopes will be at a 2:1 ratio.

### *Culvert Installation and Replacement*

The Project will include installation of new culvert crossings or replacement/upgrade of existing culverts at 28 sites. The drainage crossings are located on unnamed tributaries to Mountain House Creek, Patterson Run, and at the headwaters of Mountain House Creek. The culverts will be installed to divert water away from areas where drainage channels intersect with roadways for the purposes of preventing high stormwater flows from crossing road surfaces.

### *Power Collection, Interconnection and Transmission*

The existing Midway Substation will be replaced in the same general location. The new substation will consist of a graveled area, a chain-link perimeter fence and an outdoor lighting system. Lights on the new substation will be shielded or directed downward to reduce glare.

The power collection system will consist of insulated underground cables that will connect the WTGs to the existing on-site substation. The underground cables are buried in parallel trenches located in, or adjacent to, the roadbed of the interior access roads. Trenches will generally be 12 to 24 inches wide and 48 inches deep. The majority of the underground collection cables will be installed parallel to, and within, the footprint of areas disturbed by road construction.

An existing transmission line located between Midway Substation and Pacific Gas and Electric (PG&E) Tesla Substation located off-site will be used to interconnect the Project's to the electrical grid. The existing transmission line will be re-conducted. Re-conducting involves using rubber-tired vehicles to access the existing transmission line poles to replace and upgrade above-ground equipment such as conductor wire. Four defective poles will be replaced and one new pole will be installed. Existing gravel roads will be used to access each pole location to the extent feasible. A rubber-tired augur truck and related support vehicles (e.g., pick-up trucks) will travel cross-country to each site to augur each 5-foot diameter hole. Once the new pole is set, the hole would be backfilled to original grade. Workers will access the top of each pole from ground level to complete installation of related hardware. Other than parked vehicles, no equipment storage or staging will occur off existing roads during the pole work.

#### *Laydown Yards and Turbine Staging Areas*

The Project includes the construction of three main laydown yards for storage components and equipment, and additional staging areas at each WTG site for offloading and storage of the tower components.

The main laydown yards will be used for storage of turbine components, construction equipment, office trailers and other supplies including hazardous materials. One of these yards will be located northeast of the existing Midway Substation and used during the construction of the new collector substation for staging equipment and materials. Each laydown yard will be cleared of vegetation, graded and covered with a 6-inch gravel surface. A 1-foot-high earthen berm or other erosion control method such as silt fences and straw bales will be installed to contain water run-off. Diversion ditches will be installed, as necessary, to prevent stormwater run-off.

The Project includes construction of a temporary staging area at each new WTG to accommodate offloading and storage of the tower sections, nacelle, rotor hub and blades, as well as some construction equipment. Each staging area site will be cleared of vegetation and/or graded to achieve a level or near-level surface, and will include a compacted crane pad to allow a track-mounted crane to gain access to the turbine foundation.



## *Equipment Maintenance*

During construction, refueling and maintenance of equipment and vehicles that are authorized for highway travel will be performed off-site at an appropriate facility, or within the Project's laydown yards, if those vehicles would be used and stored on-site only. Equipment and vehicles that are not highway-authorized will be serviced within the Project's laydown yards by a maintenance crew using a specially-designed vehicle maintenance truck.

## *Restoration and Reclamation of Disturbed Areas*

At the completion of Project construction activities, all portions of the Project not needed for the long-term operation of the repowered wind energy facility or needed by the landowners will be restored or reclaimed. Restoration areas include shoulders of main access and interior roads, three main laydown yards, turbine staging areas (crane pads), cut/fill slopes, and cross-country routes for underground collection lines. Areas to be reclaimed include existing access roads to the 775 decommissioned turbines sites and existing turbine pads.

Restoration areas will receive topsoil collected during Project construction and containing native seed bank to the extent possible. Topsoil will be stripped and stockpiled at the grading limits, where applicable, and used for restoration consistent with soil types described in the Project's geotechnical report titled, *Soils Map and [Natural Resource Conservation Service] NRCS Soil Series Descriptions*, dated January 7, 2015. As part of the restoration process, all debris and materials associated with Project construction will be removed, and construction best management practices will be implemented both during and post-construction for soil stabilization and to facilitate timely vegetation restoration. Any stockpiled soil not scheduled to be used within 14 days will be stabilized. Stockpiled soil will also be protected by a linear sediment barrier, such as a silt fence, straw wattle, or both as required.

After the 48 new WTGs have been installed, the center 16-foot-wide sections of main and interior roads will remain graveled while the 8-foot-wide shoulders will be restored.

Restoration of road shoulders as well as main laydown yards and turbine staging areas will involve decompacting (disking), re-contouring, covering the surface with stockpiled topsoil to a depth ranging from 4 to 8 inches, and hydroseeding to allow for plant growth. The stockpiled topsoil will also be applied to graded slopes and then hydroseeded to allow for plant growth.

Roads no longer needed to gain access to existing turbines will be decommissioned and reclaimed in accordance with existing landowner agreements. Reclamation of roads includes ripping/disking with heavy machinery to relieve compaction and reseeding with a native seed mix. Decommissioned roads will be restored with any leftover topsoil which will aid in the reclamation effort. All reclamation activities along decommissioned access roads will remain within previously disturbed/developed areas. Turbine pads from removed WTGs will also be reclaimed with topsoil and a native seed mix.

## *Schedule*

Decommissioning of existing facilities and infrastructure is expected to start in spring 2015 and require approximately 2 months. Road construction and installation of WTGs will follow, or occur concurrently with, decommissioning over a period of 6 months. Restoration is expected to be completed by October 31, 2015. Some construction work not involving ground disturbance, such as erecting individual turbines within the constructed turbine pad, is expected to be conducted during the November to April time period. Construction-related BMPs will be implemented during any Project construction work conducted during the November to April wet season.

Operation of the wind turbines, which is expected to extend until approximately 2045, is not a covered activity under this ITP. Final decommissioning of the facility and subsequent reclamation of the site are also not covered under this ITP, and will undergo a separate permitting process.

### *GHEP -Sweet Ranch - Pond Development*

The Permittee proposes to restore to original size, approximately 0.03 acre of suitable pond breeding habitat (Pond S-1) for California red-legged frog and California tiger salamander at the GHEP – Sweet Ranch, in accordance with the draft development plan titled Breeding Habitat Mitigation and Monitoring for California Red-legged Frog and California Tiger Salamander at the Golden Hills Ecological Preserve at Sweet Ranch (Pond Habitat Development Plan).. The Pond Habitat Development Plan was amended and approved by CDFW in July 2022.

### *GHEP-ACWMA Pond Enhancement*

Habitat enhancement of approximately 0.20 acres of existing pond breeding habitat will be performed at GHEP – ACWMA through invasive bullfrog eradication activities. Pond A-1, located on GHEP-ACWMA, may be dewatered for predatory control.

### *Golden Hills Transmission Line Wildfire Mitigation Project*

The Golden Hills Transmission Line Wildfire Mitigation Project (Wildfire Mitigation Project) will remove 53 pole structures (51 wood and 2 steel) and replace them with 31 steel monopoles between the Midway and the Pacific Gas and Electric Tesla substations. The purpose of the Wildfire Mitigation Project is to reduce the potential damage from wildfire by installing fire-resistant, steel monopoles as part of Permittee's fire hardening program.

To facilitate the pole removal and replacement, previously disturbed and restored/developed areas will be used to the maximum extent possible to avoid and minimize impacts to annual grassland. This includes the use of existing roads for access and staging and minimizing the temporary construction work areas. As a result, most of the impacts will be temporary (6.39 acres) and will be restored/revegetated following construction. Permanent impacts (0.003

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acre) will be limited to the diameter of the new steel monopoles. In addition to on-site restoration of the disturbed areas, temporary and permanent impacts will be further offset by establishing an additional 6.4 acres of compensatory habitat.

### *Construction*

The temporary construction work areas and temporary overland access routes have been minimized and located to avoid impacts to sensitive biological resources (e.g., drainages and seasonal ponds), rocky outcrops, and the Haera Wildlife Conservation Bank. Access to each site will use existing roads, 2-track roads, and temporary overland access routes in that order of priority. Construction will include temporary access and staging, steel monopole installation, line conductoring, wooden and steel (19R/29L) pole removal, and guy wire removal.

### *Temporary Access and Staging*

New temporary overland access routes and temporary construction work areas around the pole locations will be required that result in temporary impacts to annual grassland habitat. These routes will be required to access temporary construction work areas at pole locations 5-11, 13, 14, 16-18, and 29-34. Temporary overland access roads and 2-track roads may be mowed prior to construction, if necessary to reduce wildfire risk. Rubber tired vehicles and equipment will be used, to the extent feasible, during dry conditions to minimize grassland habitat impacts. Protective matting will be used to avoid impacts to two ephemeral drainages that intersect with an existing 2-track road and proposed temporary overland access route. The previously disturbed/developed areas adjacent to the Midway Substation will be used as a construction laydown area to reduce habitat impacts.

### *Steel Monopole Installation*

A total of 31 new steel monopoles will be installed; 26 will be supported by excavating 4-foot diameter by 11 to 12-foot-deep vertical shaft foundations. The remaining 5 monopoles at 3, 4, 11, 15, and 29, where the lines change direction, will include a 7-foot diameter reinforced concrete foundation to provide additional lateral support. The alignment of the new monopoles from the Midway Substation to monopole 11 will be straightened to eliminate the need for angled/guyed structures and reduce habitat impacts. Installation of the new monopoles on a new alignment will also allow this portion of the line to be built while the existing line is still energized.

The temporary construction work areas around each monopole location will typically be 100-feet by 100-feet but shape and orientation vary depending on adjacent aquatic features, slope, and location of existing poles and new steel monopoles. Prior to construction, the temporary work areas around each pole location may be mowed and may have gravel added, as needed. Following construction, any gravel added will be removed and the work areas will

be recontoured to pre-construction conditions and restored/revegetated. Cranes and other equipment will be used to erect each monopole on the new foundations.

Limited grading will be required at monopole 6 to create a flat crane pad because of the steep slope at this location. A work pad area will be excavated and graded at monopole 6 within the temporary construction work area to accommodate a crane because of the steep slope at this location. The pad will remain in place but will be restored/revegetated.

### *Line Conductoring*

Line conductoring will occur using travelers (pulleys), insulators, and hardware that will be transported to each monopole by vehicle. Travelers will be installed on the monopole insulators, and a sock line will be used to pull the new line. After the new conductor is in place, it will then be "sagged" (pulled to the appropriate height and tension), then transferred from the travelers and clipped permanently to the insulator. At line end points, a boom truck will be needed to access the poles so crews can attach the dead-end eye to the monopole. Additionally, where splices exist along the alignment, a boom truck will be used to reach the conductor for the installation of new splices in areas where it will be feasible. The southwest portion of the double circuit portion will be removed, and the northeastern line will remain energized, which will allow the new line to be constructed while the line is still energized.

Temporary pull and tension sites will be located at monopoles 3, 4, 15, 28, 29, and 34 where specialized equipment will be used to install the new conductors. The sizes of the sites vary and are located to avoid impacts to sensitive resources. The temporary pull and tension sites may be mowed prior to construction.

### *Wooden Pole Removal*

Demolition of the existing 51 wooden poles and 2 steel poles will include 18 poles that will be removed before the steel monopoles are installed, and 33 poles and 2 steel poles that will be removed after the new steel monopoles are installed and the new line is energized. There are double poles located between 1R/11L and 19R/29L that will be removed and replaced with single steel monopoles. The wooden poles will be removed by pulling them out with an excavator or bucket truck. If the poles are imbedded too deeply to be pulled out, they will be cut off with a chainsaw approximately 1-3 feet below ground surface. If cutting is required, limited excavation will be necessary to allow access and space for cutting below grade. Any excavation will be limited to the minimum extent required to allow pole cutting. Following pole removal, the remaining hole or excavated area would be backfilled and lightly compacted to meet natural conditions. Demolition will require the establishment of 100-foot by 100-foot temporary work areas. Demolition activities will not involve impacts to sensitive resources or existing infrastructure.

### *Guy Wire Removal*

The existing wooden poles with guy wire supports will have guy wires clipped and anchors either left in place or removed. A guy wire at monopole 11, located within the Haera Wildlife Conservation Bank, will be cut using hand equipment. No equipment will be required to enter the Haera Wildlife Conservation Bank so no impacts will occur from this activity.

### *Future Repairs and Maintenance*

Future unforeseen maintenance activities include rotor repair and repairs to any components of the facility (for example, WTG, cables, and transformers). The future rotor repair and maintenance activities are expected to result in 8.0 acres of temporary disturbance during the term of the Amended ITP.

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

This ITP covers the following species:

<b>Name</b>	<b>CESA Status</b>
1. California tiger salamander ( <i>Ambystoma californiense</i> )	Threatened <sup>4</sup>
2. San Joaquin kit fox ( <i>Vulpes macrotis mutica</i> )	Threatened <sup>5</sup>

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

## **VIII. 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: transport of supplies and workers to and from the Project, storage of construction materials and equipment on site, grading, trenching, augering, and other earthmoving activities associated with construction, reclamation, re-contouring and restoration activities, vegetation management, pond monitoring, repairs and maintenance, and/or 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 under moving vehicles and equipment, disturbance in the vicinity of dens or burrows. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of capture of the Covered Species from

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

<sup>5</sup> See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(6)(E).

relocation of the Covered Species to minimize the potential of mortality. Relocation could, absent implementation of protective measures, result in mortality, injury, and/or disease transmission to Covered Species by individuals involved in the relocation effort. The areas where authorized take of the Covered Species is expected to occur include: any location within the Project or along access routes (collectively, the Project Area).

The Project is expected to cause the permanent loss of a total of 50.8 acres and temporary disturbance of 368.79 acres of upland habitat. Of those total amounts, the Wildfire Mitigation Project resulted in 6.39 acres of temporary impacts and 0.003 acre of permanent impacts to annual grassland that supports suitable upland estivation and dispersal habitat for California tiger salamander and denning and foraging habitat for San Joaquin kit fox. The future rotor repair and maintenance activities are expected to result in 8.0 acres of temporary disturbance during the term of the Amended ITP.

The permanent impacts to upland habitat will result from construction of new roads, construction of main (three) laydown yards, installation of turbine pads, installation of culverts and roadside rock-lined ditches, installation of meteorological towers, and installation of new power poles. Permanent impacts resulting from road construction include the 32-foot-wide gravel surfaces on main access roads and 16-foot-wide gravel surfaces of interior (secondary) roads. The main laydown yards and shoulders of main access roads will be restored (see *Restoration and Reclamation of Disturbed Areas*); however, these areas are considered permanent impacts due to the difficulty of completely restoring these highly-compacted areas. The permanent, indirect impacts to aquatic habitat (stock ponds SP-05, SP-10, SP-11, SP-12, SP-13 and SP-17) will occur as a result of modifications to watershed drainage patterns and pond water supply following road construction and installation of drainage conveyance structures. Permanent Impacts from the Wildfire Mitigation Project will be a result of the installation of steel monopoles.

The temporary impacts will result from the cut/fill of roads, construction of new turbine staging areas, installation of underground collection lines, reclamation of existing turbine pads, and repair and maintenance activities. Temporary impacts from the Wildfire Mitigation Project will be the result of the establishment and use of work areas, access and staging areas, steel monopole installation, line conducting, wooden pole removal, and guy wire removal.

The 8-foot-wide shoulders of interior roads are considered temporary impacts since these road segments are expected to be less traveled by construction-related traffic, landowners, and third parties, and therefore less compacted, compared to main road shoulders. The reclamation of existing roads within the existing roadway is not considered a "temporary impact".

The impacts associated with enhancement of the breeding pond includes the following:

Enhancement of the existing Pond S-1 will restore it to the original 0.03-acre size, taking advantage of the existing spring water source, existing pond berm, and vegetated spillway.

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An additional temporary impact area (0.26 acres) will be used for staging of equipment and materials on-site as well as for general construction access. The total area impacted by the enhanced pond work activity will be approximately 1.5 acres or less, including the pond, work area surrounding the pond, and equipment staging.

Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from grading noise and vibration, stress associated with increased human presence, capture and translocation, and long-term effects due to displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

#### **IX. 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.

#### **X. Conditions of Approval:**

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2010082063) certified by the Alameda County Community Development Agency on November 12, 2014 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

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- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. 1600-2014-0222-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 East Alameda County Conservation Strategy Biological Opinion (08ESMF00-2012-F-0092-1) for the Project (appended) 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 Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 5 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- 6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately

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

- 6.4. On-Site Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook 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 at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.
- 6.8. Erosion Control. 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 Project where sediment runoff from exposed slopes could leave the Project Area and/or enter a stream or pond. 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. 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.
- 6.12. Additional Impacts to Habitat. No take beyond the permanent loss of 50.8 acres of habitat for the Covered Species and temporary loss of 368.79 acres of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts. 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 (see ITP Condition 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, then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (see ITP Condition 6.15).
- 6.13. Project Access. Project-related personnel shall access the Project Area using existing routes or routes identified in Figure 2 and 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.

### *Temporary Impacts and Restoration*

- 6.14. 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, and no additional ground disturbing activities shall occur; (2) if the impact area is within 1,000 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 Condition 6.15). Impacts not meeting this temporary impact definition are considered permanent impacts, and this ITP only authorizes up to 50.8 acres of permanent impact.
- 6.15. 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 5 days prior to the start of restoration activities. The Restoration Plan shall identify plant species damaged or removed during Project activities. For seeding and mulching exposed slopes, the seed blend shall include locally native grass species at a ratio appropriate to the site. Local native wildflower and/or shrub seeds may also be included in the mix. One or two sterile non-native perennial grass species may be added to the seed mix at an amount appropriate to the site. 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. The Restoration Plan shall include the following restoration standards:
  - 6.15.1. 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 refer to the Project's geotechnical report titled *Soils Map and NRCS Soil Series Descriptions*, dated January 7, 2015, for evaluation of soil conditions at the sites. Permittee shall ground-truth soil conditions (e.g., type, texture, chemical composition and pH) by taking a soil sample and submitting the sample to an analytical lab. Permittee shall also evaluate species composition at the reference site. Permittee shall use information collected at the reference site to guide restoration activities.

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

- Gravel shall be removed from restored areas;
- Permittee may import and place up to three (3) feet of soil in compacted areas, such as former roads and turbine pads, to increase the potential for vegetation establishment. Fill shall not be placed for purely aesthetic purposes, as fill has the potential to result in unnecessary and avoidable take of Covered Species. The upper one (1) foot of fill shall consist of topsoil;
- 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;
- 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;

- 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;
- 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;
- Seed mixes shall include only native species, with an emphasis on native bunchgrasses and other grassland species. 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.
- No more than 5 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/paf/>). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner.

6.15.3. 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. If restoration has been successful as outlined in Condition of

Approval 6.15.2, Permittee may submit the following report at the end of Year 1 and annually thereafter.

If the survival and/or cover requirements are not meeting the performance standards outlined in Condition of Approval 6.15.2, 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 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.

- 6.16. CDFW Review of Monthly Report. If CDFW determines in writing 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 CDFW determines in writing that take authorization for temporary impacts is likely to be exceeded in the coming month, Permittee shall revise the Project construction schedule (see Condition 6.20) in order to ensure temporary impacts meet the temporary impact criteria according to Condition 6.14. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.

### *Invasive Species*

- 6.17. 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 6.19). The Designated Biologist(s) qualified to do botanical surveys and approved by CDFW shall follow the sampling methodology described in the technical memorandum titled *Golden Hills Wind Energy Facility Repowering Project- Proposal for Establishing Invasive Plant Species Baseline Conditions*, dated November 4, 2014 (Invasive Plant Baseline Memo). 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 according to the Invasive Plant Baseline Memo 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 a minimum of 30 monitoring plots (treatment and control sets) within the Project Area. 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/>), and listed in Attachment B of the Invasive Plant Baseline Memo.

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- 6.18. 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/>.
- 6.19. 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 6.17). 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.

### *Construction*

- 6.20. 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 of each phase of the Project (such as decommissioning, repowering, restoration, etc.) and for each Project activity within those phases. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven (7) days prior to the change being implemented.
- 6.21. 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.

- 6.22. 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.
- 6.23. 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.
- 6.24. 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.
- 6.25. 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 will 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.
- 6.26. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and Project site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.
- 6.27. Wildfire Prevention. If the Project site is within a high or very high Fire Hazard Severity Zone (refer to <http://frap.fire.ca.gov/projects/hazard/fhz.html>) 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.
- 6.28. 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 in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections at a minimum of once per month during periods of inactivity and after clearing, grubbing, and grading are completed.
- 7.4. Photo Monitoring. No less than 10 photo monitoring stations shall be established to provide representative views of Project decommissioning, construction, restoration and reclamation 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

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restoration is 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 5 days prior to the start of Project decommissioning and repowering. The Pond Monitoring Plan shall include a sampling methodology to collect both pre-(baseline) and post-construction hydrologic data in order to evaluate the impacts of road construction and installation of culverts and ditches on pond hydrology. Monitoring shall be conducted in ponds considered to be at risk of hydrologic changes due to proximity of ponds to Project construction, watershed size, and other factors (SP-05, SP-10, SP-11, SP-12, SP-13 and SP-17). 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 7.3 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. Repair and maintenance activities are not required to be submitted monthly, but they shall be included in Annual Reports.

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 6.14. 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 Condition of Approval 6.15.

Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional

Representative is Marcia Grefsrud ([Marcia.Grefsrud@wildlife.ca.gov](mailto:Marcia.Grefsrud@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. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 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. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project.

The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (707) 428-2002 and (707) 644-2812 (direct line of CDFW Regional Representative). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

## 8. Take Minimization Measures:

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

### *Multi-Species Protective Measures*

- 8.1. Vehicle Speed Limit. Permittee, Designated Biologist(s) and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 15 miles per hour when traveling through the Project area.
- 8.2. 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 8.21. If a San Joaquin kit fox is found, it shall not be handled, but shall be allowed to passively move away from the work area (see Condition 8.25).
- 8.3. 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.
- 8.4. 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 5 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 5 inches. The Designated Biologist should wear protective clothing and leather gloves during excavation as rattlesnakes may occupy small mammal burrows.

- 8.5. 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.
- 8.6. Covered Species Handling and Injury. If an injured Covered Species is found during the Project term, the Designated Biologist shall evaluate the individual and 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 Designated Biologist shall place the injured individual in a safe and shaded location. Any injured California tiger salamanders shall be placed in a shaded container and kept moist, and 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; [http://www.nwhc.usgs.gov/publications/amphibian\\_research\\_procedures/handling\\_and\\_restraint.jsp](http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp)). 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:
  - 8.6.1. If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately (see Conditions 8.21 and 8.25);
  - 8.6.2. If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum 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 CDFW and USFWS. 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 7.10.

## *California Tiger Salamander*

- 8.7. 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:
- 8.7.1. Upland Habitat: Between April 15 and October 31 (Dry Season);
- 8.7.2. Aquatic Habitat: Between June 15 and October 15. Covered Activities may begin prior to June 15 if the stream, wetland or pond in which work will occur has been dry for a minimum of 30 days prior to initiating work.
- 8.8. Seasonal Work Window Extension. Permittee shall adhere to the seasonal work windows required in Condition 8.7 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 pick-up trucks and light utility vehicles using completed main and interior gravel roads to gain access to the turbine pads. If work is approved by CDFW outside of the seasonal work windows required in Condition 8.7, the following conditions shall apply:
- 8.8.1. 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. All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads;
- 8.8.2. 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.
- 8.8.3. 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.
- 8.9. 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.

- 8.10. Wet Season Work Restriction. During the wet season of November 1 to April 14, Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and contouring) shall cease 24 hours prior to a 60 percent or greater forecast of rain from the NWS. Construction may continue 24 hours after the rain ceases and there is less than a 60 percent chance of precipitation in the 24-hour forecast. CDFW may approve work when there is a 60 percent or more chance of precipitation in the 24-hour forecast subject to Condition of Approval 8.8 and the following condition:
  - 8.10.1. If work is approved when a greater than 60 percent chance of rain is forecast, the Designated Biologist(s) shall survey the Project site before construction begins EACH day rain is forecast. If rain exceeds 0.25 inches during a 24-hour period, work shall cease until there is a less than 60 percent change of precipitation in the 24-hour forecast. All night-time work and construction-related traffic will be suspended during rain events.
- 8.11. Daily Work Window. The California tiger salamander active season is defined as the period of time during which California tiger salamanders are above ground. During the 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.
- 8.12. Pre-construction survey, California Tiger Salamander. Prior to initiating Covered Activities, the Designated Biologist shall perform a pre-construction survey within the boundaries of the Project Area plus a 50-foot buffer zone around the construction area following the *2003 Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Findings of the CTS* (California Department of Fish and Game and U.S. Fish and Wildlife Service, 2003). The Designated Biologist(s) shall complete walking surveys of the Project Area prior

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to any ground-disturbing activity (such as soils deposition areas, road construction or improvement sites, or fence installation/repair sites), and shall follow earthmoving equipment to look for California tiger salamander during initial site grading. The Designated Biologist shall survey suitable habitat features, such as aquatic and upland areas and beneath woody debris, for California tiger salamander. The Designated Biologist shall conduct pre-construction surveys in conjunction with exclusion fencing installation (see Condition 8.13). If the Designated Biologist(s) or anyone else discovers California tiger salamander, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition 8.21).

- 8.13. Exclusion Fencing Near Aquatic Features. To prevent the California tiger salamander from entering the construction area, exclusion fencing shall be constructed around all work areas within 500 feet of all aquatic features. Permittee 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 after March 15 and shall be placed within 10 feet of the edge of work areas. Permittee shall maintain the barrier throughout all construction activities. The Designated Biologist shall inspect the area prior to installation. The interior and exterior of the exclusion fencing shall be inspected by the Designated Biologist at least once daily from November 1 to June 15 to ensure that no California tiger salamanders are trapped against the fencing, where they could desiccate or be predated upon. Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. The barrier shall consist of **one of the following**:

- 8.13.1. Taut silt fabric fencing (supported by wooden stakes) at least 12 inches tall above the soil surface and buried to a depth of 6-12 inches below the soil surface;
- 8.13.2. Metal flashing at least 12 inches tall above the soil surface and buried to a depth of 4.7-6 inches below the soil surface;
- 8.13.3. Welded metal hardware cloth, ¼-inch mesh size, extending at least 12 inches above the soil and buried at least 4 inches below the soil surface. The top shall be folded over; or a piece of ½ inch PVC cut laterally shall be placed on the top of the fencing.

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



Permittee shall also ensure that silt fencing and/or other erosion control methods are used to prevent sediment or other debris from passing into California tiger salamander aquatic habitat that is within 500 feet of Project construction activities.

- 8.14. Delineation of Burrow Complexes. The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Condition 8.12) 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.
- 8.15. 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.
- 8.16. 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, or dikes that could prevent California tiger salamander from crossing or exiting the roadway. If curbs/berms 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.
- 8.17. 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 within the area that the Permittee will clear immediately prior to mowing. Permittee shall not disk or till vegetation.
- 8.18. Open Trenches. To prevent inadvertent entrapment of California tiger salamander during construction, the Designated Biologist shall check all excavated open holes, pumps and trenches for California tiger salamander prior to sunrise 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 8.21) 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 at any time a trapped California tiger salamander is discovered by the Designated

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Biologist or any work crew member, the Designated Biologist shall move the animal to a safe nearby location.

- 8.19. 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.
- 8.20. 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. If a California tiger salamander is found, the Designated Biologist shall wait for the individual to move unimpeded to a safe location. If the individual is found within the fenced Project site, the Designated Biologist shall move the individual outside of the construction area (see Condition 8.21). 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 outside of the area of construction.
- 8.21. Relocation<sup>6</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 areas 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 8.6). The Designated Biologist shall contact CDFW's Regional Representative within one working day of any relocation incidents. Incidents that do not result in mortality shall be reported in the monthly and final

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<sup>6</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.

compliance report. At a minimum, the report of the incident shall include the time, location, and circumstances that led to the California tiger salamander being discovered and confined; the location where the California tiger salamander was relocated; and photographs of the incident. All locations shall be geo-referenced and detailed in text.

- 8.22. 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>7</sup> All equipment parts that may come into contact with the water--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.
- 8.23. 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 and Permittee shall consult to determine measures to address non-native or hybrid populations.
- 8.24. Invasive Species. Any bullfrogs (*Rana catesbeiana*) 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. BB or pellet guns are prohibited. CDFW may issue a permit to take and dispose of frogs under such limitations as the commission may prescribe (Fish & G. 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) within 1.3 miles of potential or known California tiger salamander breeding sites.

### *San Joaquin Kit Fox*

- 8.25. 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 the United States Fish and Wildlife Service's (USFWS)

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<sup>7</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.

*Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance (USFWS 1999).*

- 8.26. 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.
- 8.27. 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.
- 8.28. 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.
- 8.29. Destruction/Collapse of San Joaquin Kit Fox Dens. Destruction of 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 is discovered inside the den, excavation shall cease immediately and monitoring of the den as described above 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.

- 8.30. California tiger salamander. Drainage of ponds shall occur late in the breeding season between September and October. Any pumps used to drain ponds shall be screened with screens that meet screening criteria.  
[http://www.westcoast.fisheries.noaa.gov/publications/hydropower/water\\_drafting\\_specification\\_guidelines.pdf](http://www.westcoast.fisheries.noaa.gov/publications/hydropower/water_drafting_specification_guidelines.pdf). If groundwater recharge prevents the pond from being completely dried, ponds shall be monitored for the presence of California tiger salamander. All excavated pond material shall be inspected by the Designated Biologist for California tiger salamander larvae. All California tiger salamanders found shall be relocated to an appropriate site approved in advance by CDFW. Relocation shall be done in accordance with a CDFW-approved Relocation Plan.
- 8.31. Vegetation Clearing. Existing vegetation shall be cleared only where necessary and disposal of cuttings and debris shall be in an approved facility designed to handle the waste.

## 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 the Covered Species that will result with 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 acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall either purchase a total of 528.89 acres (includes the 3.0-acre shortfall from ITP Amendment 2) of Covered Species credits (528.89 acres of San Joaquin kit fox credits and 525.49 acres of California tiger salamander credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of a total of 528.89 acres of Habitat Management (HM) lands that include 528.89 acres of San Joaquin kit fox habitat and 525.49 acres of California tiger salamander habitat pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Permittee shall provide compensatory habitat following the conservation priorities and mitigation ratios described in the *East Alameda County Conservation Strategy* (Chapter 3, dated October 2010) for the Covered Species as confirmed by CDFW. Compensatory habitat shall include both upland and California tiger salamander aquatic breeding habitat through preservation, restoration, enhancement, and/or creation of pond habitat that is the same or better quality as habitat that will be impacted. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or within 18 months of the effective date of this ITP or an Amendment if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

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Permittee shall also restore on-site 368.79 acres of temporarily-impacted Covered Species habitat pursuant to Condition of Approval 9.6 below. If any temporary impacts do not meet the criteria identified in Condition 6.14, compensatory mitigation to offset the additional Project temporal impacts shall occur at a 2:1 ratio for any semi-permanent impacts restored within 2 years but greater than 1 year and 3:1 for any non-permanent impacts not restored within 2 years. If Condition 6.14 is not achieved, the compensatory mitigation that shall be necessary shall become greater than the 528.89 acres identified above. 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. CDFW has estimated the cost of 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 \$15,000/acre for 528.89 acres: **\$7,933,350.00**. Land acquisitions costs are estimated using local fair market current value 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 9.3.5 below, estimated at **\$76,000.00**;

9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at **\$114,000.00**;

9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$3,000.00/acre for 528.89 acres: **\$1,586,670.00**. 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 **\$3,000.00**.

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 368.79 acres: **\$1,290,765.00**.

9.2. Covered Species Credits. Permittee shall purchase 528.89 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 or an Amendment if Security is provided pursuant to Condition of Approval 10 below.

OR:

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

9.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);

9.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

9.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

9.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but

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need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.

- 9.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://wildlife.ca.gov/Conservation/Planning/Banking>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 9.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring (including pond monitoring), and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the 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. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual



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

- 9.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4);
- 9.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

- 9.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.
- 9.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:
  - 9.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.
  - 9.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
  - 9.4.2.2.3. Non-Annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.
- 9.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.
- 9.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

- 9.6. Habitat Restoration. Permittee shall restore on-site the 368.79 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions. Within 6 months of issuance of this ITP or an Amendment, the Permittee shall prepare a Restoration Plan pursuant to ITP Condition 6.15 to facilitate revegetation of the 368.79 acres of temporary construction disturbance on-site, and shall ensure that the Restoration Plan is successfully implemented by the contractor. The Restoration Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods.

## 10. Performance Security

The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 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 **\$11,003,785.00 (an increase of \$68,585.00 from Amendment 2)**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 10.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first. Security shall be provided to CDFW within 90 days, unless otherwise approved by CDFW in writing, after the effective date of an Amendment.
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

- Written documentation of the acquisition of the HM lands;
- Copies of all executed and recorded conservation easements;
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
- Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 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.

#### **XI. 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.

#### **XII. Stop-Work Order:**

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, or fully protected species designated in the Fish and Game Code, 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, and is included in this ITP by reference. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

### **XIII. 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.

### **XIV. 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.

### **XV. Notices:**

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

Habitat Conservation Planning Branch  
California Department of Fish and Wildlife  
Attention: CESA Permitting Program  
1416 Ninth Street, Suite 1260  
Sacramento, CA 95814

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW email or by 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 (2081-2014-034-03) 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:

Marcia Grefsrud, Environmental Scientist  
California Department of Fish and Wildlife – Bay Delta Region  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534  
Telephone (707) 644-2812  
[Marcia.Grefsrud@wildlife.ca.gov](mailto:Marcia.Grefsrud@wildlife.ca.gov)

#### **XVI. Compliance with CEQA:**

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, 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 17, 2014. 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 any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

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None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Major Amendment No. 3.

## **XVII. Findings Pursuant to CESA:**

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

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

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) restoration and 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 ~~525.7~~ 528.89 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;

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- (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.
- (9) CDFW finds that this Amendment is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).
- (10) Issuance of this Amendment will increase the amount of take of the Covered Species compared to the Project as originally approved; The additional impacts of the taking will be minimized and fully mitigated through the Conditions of approval set forth in the ITP. 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)).
- (11) 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).

#### **XVIII. Attachments:**

FIGURE 1	Map of Project Location
FIGURE 2	Project Layout
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2A, 2B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form
ATTACHMENT 5	Major Amendment 3 with Track Changes

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

on 6/25/2025.

DocuSigned by:

*Erin Chappell*

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Erin Chappell, Regional Manager  
Bay Delta Region

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## **Attachment 1**

### **CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE MITIGATION MONITORING AND REPORTING PROGRAM (MMRP) CALIFORNIA ENDANGERED SPECIES ACT INCIDENTAL TAKE PERMIT NO. 2081-2014-034-03**

**PERMITTEE:** Daniel Neville, Golden Hills Wind, LLC

**PROJECT:** Golden Hills Energy Facility 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	Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 5 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
4	Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
5	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	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	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	
7	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 # 6.11	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
8	<p>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 6.19). The Designated Biologist(s) qualified to do botanical surveys and approved by CDFW shall follow the sampling methodology described in the technical memorandum titled <i>Golden Hills Wind Energy Facility Repowering Project- Proposal for Establishing Invasive Plant Species Baseline Conditions</i>, dated November 4, 2014 (Invasive Plant Baseline Memo). 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 according to the Invasive Plant Baseline Memo 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 a minimum of 30 monitoring plots (treatment and control sets) within the Project Area. 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>), and listed in Attachment B of the Invasive Plant Baseline Memo.</p>	ITP Condition # 6.17	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	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 of each phase of the Project (such as decommissioning, repowering, restoration, etc.) and for each Project activity within those phases. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven (7) days prior to the change being implemented.	ITP Condition # 6.20	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
10	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.	ITP Condition # 6.21	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	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.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
12	<p>No less than 10 photo monitoring stations shall be established to provide representative views of Project decommissioning, construction, restoration and reclamation 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> <ul style="list-style-type: none"> <li>i. Stations should be located in areas that allow for unobstructed views and a field of vision of approximately 2,000 feet.</li> <li>ii. At least one photograph shall be taken at all stations prior to ground-breaking activities, and each month thereafter until construction and initial restoration is complete. Photo documentation of restoration success shall occur every three months following initial restoration until restoration success criteria are reached.</li> <li>iii. Photo monitoring station locations shall be provided to CDFW in a geographic format with the coordinate system identified.</li> <li>iv. 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.</li> <li>v. During each photo monitoring cycle, all stations shall be visited within two days.</li> </ul>	ITP Condition # 7.4	Before commencing ground- or vegetation-disturbing activities	Permittee	
13	Permittee shall submit a Pond Monitoring Plan to CDFW for approval within a minimum of 5 days prior to the start of Project decommissioning and repowering. The Pond Monitoring Plan shall include a sampling methodology to collect both pre-(baseline) and post-construction hydrologic data in order to evaluate the impacts of road construction and installation of culverts and ditches on pond hydrology. Monitoring shall be conducted in ponds considered to be at risk of hydrologic changes due to proximity of ponds to Project construction, watershed size, and other factors (SP-05, SP-10, SP-11, SP-12, SP-13 and SP-17). The sampling methodology shall include hydrologic parameters such as pond depth, hydroperiod, flow regime, and water quality.	ITP Condition # 7.5	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	<p>Prior to initiating Covered Activities, the Designated Biologist shall perform a pre-construction survey within the boundaries of the Project Area plus a 50-foot buffer zone around the construction area following the <i>2003 Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Findings of the CTS</i> (California Department of Fish and Game and U.S. Fish and Wildlife Service, 2003). The Designated Biologist(s) shall complete walking surveys of the Project Area prior to any ground-disturbing activity (such as soils deposition areas, road construction or improvement sites, or fence installation/repair sites), and shall follow earthmoving equipment to look for California tiger salamander during initial site grading. The Designated Biologist shall survey suitable habitat features, such as aquatic and upland areas and beneath woody debris, for California tiger salamander. The Designated Biologist shall conduct pre-construction surveys in conjunction with exclusion fencing installation (see Condition 8.13). If the Designated Biologist(s) or anyone else discovers California tiger salamander, the Designated Biologist(s) shall move the animal to a safe location nearby (see Condition 8.21).</p>	ITP Condition # 8.12	Before commencing ground- or vegetation-disturbing activities	Permittee	
15	<p>To prevent the California tiger salamander from entering the construction area, exclusion fencing shall be constructed around all work areas within 500 feet of all aquatic features. Permittee 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 after March 15 and shall be placed within 10 feet of the edge of work areas. Permittee shall maintain the barrier throughout all construction activities. The Designated Biologist shall inspect the area prior to installation. The interior and exterior of the exclusion fencing shall be inspected by the Designated Biologist at least once daily from November 1 to June 15 to ensure that no California tiger salamanders are trapped against the fencing, where they could desiccate or be predated upon. Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. The barrier shall consist of <b>one of the following</b>:</p> <ul style="list-style-type: none"> <li>i. Taut silt fabric fencing (supported by wooden stakes) at least 12 inches tall above the soil surface and buried to a depth of 6-12 inches below the soil surface;</li> <li>ii. Metal flashing at least 12 inches tall above the soil surface and buried to a depth of 4.7-6 inches below the soil surface;</li> <li>iii. Welded metal hardware cloth, ¼-inch mesh size, extending at least 12 inches above the soil and buried at least 4 inches below the soil surface. The top shall be folded over; or a piece of ½ inch PVC cut laterally shall be placed on the top of the fencing.</li> </ul> <p>The barrier shall remain in place until the Permittee completes all Covered Activities and all construction equipment has been removed from the site. 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>	ITP Condition # 8.13	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>
16	The Designated Biologist shall clearly delineate all potential burrows within the pre-construction survey area (see Condition 8.12) 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.	ITP Condition # 8.14	Before commencing ground- or vegetation-disturbing activities	Permittee	
17	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.	ITP Condition # 8.15	Before commencing ground- or vegetation-disturbing activities	Permittee	
18	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, <i>etc.</i> , 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 # 8.26	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<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 the Covered Species that will result with 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 acreage required to provide for adequate compensation.</p> <p>To meet this requirement, the Permittee shall either purchase a total of 528.89 acres (includes the 3.0-acre shortfall from ITP Amendment 2) of Covered Species credits (528.89 acres of San Joaquin kit fox credits and 525.49 acres of California tiger salamander credits) from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of a total of 528.89 acres of Habitat Management (HM) that include 528.89 acres of San Joaquin kit fox habitat and 525.49 acres of California tiger salamander habitat lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Permittee shall provide compensatory habitat following the conservation priorities and mitigation ratios described in the <i>East Alameda County Conservation Strategy</i> (Chapter 3, dated October 2010) for the Covered Species as confirmed by CDFW. Compensatory habitat shall include both upland and California tiger salamander aquatic breeding habitat through preservation, restoration, enhancement, and/or creation of pond habitat that is the same or better quality as habitat that will be impacted. Permanent protection and funding for perpetual management of compensatory habitat 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.</p> <p>Permittee shall also restore on-site 368.79 acres of temporarily-impacted Covered Species habitat pursuant to Condition of Approval 9.6 below. If any temporary impacts do not meet the criteria identified in Condition 6.14, compensatory mitigation to offset the additional Project temporal impacts shall occur at a 2:1 ratio for any semi-permanent impacts restored within 2 years but greater than 1 year and 3:1 for any non-permanent impacts not restored within 2 years. If Condition 6.14 is not achieved, the compensatory mitigation that shall be necessary shall become greater than the 528.89 acres identified above. 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
20	<p>CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:</p> <ul style="list-style-type: none"> <li>i. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$15,000/acre for 528.89 acres: <b>\$7,933,350.00</b>. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;</li> <li>ii. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at <b>\$76,000.00</b>;</li> <li>iii. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at <b>\$114,000.00</b>;</li> <li>iv. Long-term management funding as described in [Condition of Approval 9.4] below, estimated at \$3,000.00/acre for 528.89 acres: <b>\$1,586,670.00</b>. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.</li> <li>v. 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 <b>\$3,000.00</b>.</li> <li>vi. 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 368.79 acres: <b>\$1,290,765.00</b>.</li> </ul>	ITP Condition # 9.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
21	<p>Permittee shall purchase 528.89 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.</p> <p>OR:</p>	ITP Condition # 9.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
22	To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:	ITP Condition # 9.3	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>
23	Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);	ITP Condition # 9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
24	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, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;	ITP Condition # 9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
25	Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). 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;	ITP Condition # 9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
26	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.	ITP Condition # 9.3.4	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
27	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="http://www.dfg.ca.gov/habcon/conplan/mitbank/">http://www.dfg.ca.gov/habcon/conplan/mitbank/</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;	ITP Condition # 9.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
28	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 (including pond monitoring), and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the 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.	ITP Condition # 9.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
29	<p>The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition # 9.4	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
30	<p>The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4);</p>	ITP Condition # 9.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
31	<p>After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.</p> <ol style="list-style-type: none"> <li>Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.</li> <li>Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</li> <li>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.</li> <li>Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.</li> <li>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.</li> </ol>	ITP Condition # 9.4.2	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
32	Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Condition # 9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
33	Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Condition # 9.5	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
34	<p>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> <ol style="list-style-type: none"> <li>The Security shall be in the amount of <b>\$11,003,785.00 (an increase of \$68,585.00 from Amendment 2)</b>. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.</li> <li>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.</li> <li>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.</li> <li>The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</li> <li>If CDFW holds the Security, 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 escrow, irrevocable letter of credit, or other.</li> <li>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.</li> <li>The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by: <ul style="list-style-type: none"> <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; and</li> <li>Timely submission of all required reports.</li> </ul> </li> </ol> <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 Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
<b>DURING CONSTRUCTION</b>					

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
35	To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Entire Project	Permittee	
36	The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW	ITP Condition # 6.5	Entire Project	Permittee	
37	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 # 6.8	Entire Project	Permittee	
38	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	Entire Project	Permittee	
39	No take beyond the permanent loss of 50.08 acres of habitat for the Covered Species and temporary loss of 368.79 acres of habitat for the Covered Species authorized in the ITP shall occur unless the ITP is amended by CDFW prior to additional impacts. 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 (see ITP Condition 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, then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (see ITP Condition 6.15).	ITP Condition # 6.12	Entire Project	Permittee	
40	Project-related personnel shall access the Project Area using existing routes or routes identified in Figure 2 and the Project Description, and shall not cross Covered Species' habitat outside of, or en route to, the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.13	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
41	<p>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 5 days prior to the start of restoration activities. The Restoration Plan shall identify plant species damaged or removed during Project activities. For seeding and mulching exposed slopes, the seed blend shall include locally native grass species at a ratio appropriate to the site. Local native wildflower and/or shrub seeds may also be included in the mix. One or two sterile non-native perennial grass species may be added to the seed mix at an amount appropriate to the site. Permittee shall complete seeding as soon as possible, but no later than October 31 of the year construction ends. 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. The Restoration Plan shall include the following restoration standards:</p>	ITP Condition # 6.15	Entire Project	Permittee	
42	<p>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>i.e.</i>, 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 refer to the Project's geotechnical report titled <i>Soils Map and NRCS Soil Series Descriptions</i>, dated January 7, 2015, for evaluation of soil conditions at the sites. Permittee shall ground-truth soil conditions (<i>e.g.</i>, type, texture, chemical composition and pH) by taking a soil sample and submitting the sample to an analytical lab. Permittee shall also evaluate species composition at the reference site. Permittee shall use information collected at the reference site to guide restoration activities.</p>	ITP Condition # 6.15.1	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
43	<p>To be considered a successful restoration site, Permittee shall meet the following performance standards:</p> <ul style="list-style-type: none"> <li>i. Gravel shall be removed from restored areas;</li> <li>ii. Permittee may import and place up to three (3) feet of soil in compacted areas, such as former roads and turbine pads, to increase the potential for vegetation establishment. Fill shall not be placed for purely aesthetic purposes, as fill has the potential to result in unnecessary and avoidable take of Covered Species. The upper one (1) foot of fill shall consist of topsoil;</li> <li>iii. 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;</li> <li>iv. 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;</li> <li>v. 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;</li> <li>vi. 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;</li> </ul>	ITP Condition # 6.15.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
43 cont.	<p>vii. Seed mixes shall include only native species, with an emphasis on native bunchgrasses and other grassland species. Seed may be collected from within the Project Area. Additional seed shall be sourced from within 50 miles of the Project Area (<i>i.e.</i>, original genetic material shall have been collected within this radius); however, the seed may be purchased from a seed farm outside of this area.</p> <p>viii. No more than 5 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) <i>California Invasive Plant Inventory Database</i> (<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 control activities in coordination with the property owner.</p>				
44	If CDFW determines in writing 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 CDFW determines in writing that take authorization for temporary impacts is likely to be exceeded in the coming month, Permittee shall revise the Project construction schedule (see Condition 6.20) in order to ensure temporary impacts meet the temporary impact criteria according to Condition 6.14. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to the ITP to address additional impacts.	ITP Condition # 6.16	Entire Project	Permittee	
45	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>	ITP Condition # 6.18	Entire Project	Permittee	
46	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 6.17). 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	ITP Condition # 6.19	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 6.22	Entire Project	Permittee	
48	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.	ITP Condition # 6.23	Entire Project	Permittee	
49	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.	ITP Condition # 6.24	Entire Project	Permittee	
50	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 will 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 # 6.25	Entire Project	Permittee	
51	Permittee shall prohibit firearms and domestic dogs from the Project Area and Project site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.	ITP Condition # 6.26	Entire Project	Permittee	
52	If the Project site is within a high or very high Fire Hazard Severity Zone (refer to <a href="http://frap.fire.ca.gov/projects/hazard/fhz.html">http://frap.fire.ca.gov/projects/hazard/fhz.html</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 # 6.27	Entire Project	Permittee	
53	The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
54	The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP. The Designated Biologist shall conduct compliance inspections at a minimum of once per month during periods of inactivity and after clearing, grubbing, and grading are completed.	ITP Condition # 7.3	Entire Project	Permittee	
55	<p>The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.3 and 7.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Repair and maintenance activities are not required to be submitted monthly, but they shall be included in Annual Reports.</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 6.14. 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 Condition of Approval 6.15.</p> <p>Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative. At the time of the ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (marcia.grefsrud@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	
56	Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the 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 this 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.	ITP Condition # 7.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
57	The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.8	Entire Project	Permittee	
58	Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office (707) 428-2002and/or (707) 644-2812 (direct line of CDFW Regional Representative). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition # 7.10	Entire Project	Permittee	
59	Permittee, Designated Biologist(s) and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 15 miles per hour when traveling through the Project area.	ITP Condition # 8.1	Entire Project	Permittee	
60	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 8.21. If a San Joaquin kit fox is found, it shall not be handled, but shall be allowed to passively move away from the work area (see Condition 8.25).	ITP Condition # 8.2	Entire Project	Permittee	
61	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.	ITP Condition # 8.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
62	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 5 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 0.5 inches. The Designated Biologist should wear protective clothing and leather gloves during excavation as rattle snakes may occupy small mammal burrows.	ITP Condition # 8.4	Entire Project	Permittee	
63	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.	ITP Condition # 8.5	Entire Project	Permittee	
64	<p>If an injured Covered Species is found during the Project term, the Designated Biologist shall evaluate the individual and 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 Designated Biologist shall place the injured individual in a safe and shaded location. Any injured California tiger salamanders shall be placed in a shaded container and kept moist, and shall be handled and assessed according to the <i>Restraint and Handling of Live Amphibians</i>, USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001; <a href="http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp">http://www.nwhc.usgs.gov/publications/amphibian_research_procedures/handling_and_restraint.jsp</a>). 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:</p> <ul style="list-style-type: none"> <li>i. If the injury to the Covered Species is minor or healing and the individual is likely to survive, the individual shall be released immediately (see Conditions 8.21 and 8.25);</li> <li>ii. If it is determined that the Covered Species has major or serious injuries as result of Project-related activities, then the Designated Biologist shall immediately take it to the Lindsay Wildlife Museum 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 CDFW and USFWS. 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 7.10</li> </ul>	ITP Condition # 8.6	Entire Project	Permittee	
65	<p>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> <ul style="list-style-type: none"> <li>i. Upland Habitat: Between April 15 and October 31 (Dry Season);</li> <li>ii. Aquatic Habitat: Between June 15 and October 15. Covered Activities may begin prior to June 15 if the stream, wetland or pond in which work will occur has been dry for a minimum of 30 days prior to initiating work.</li> </ul>	ITP Condition # 8.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
66	<p>Permittee shall adhere to the seasonal work windows required in Condition 8.7 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 pick-up trucks and light utility vehicles using completed main and interior gravel roads to gain access to the turbine pads. If work is approved by CDFW outside of the seasonal work windows required in Condition 8.7, the following conditions shall apply:</p> <ul style="list-style-type: none"> <li>i. 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. All construction work shall take place within the fenced area. Installation of exclusion fencing does not apply to graveled or well-traveled roads;</li> <li>ii. 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;</li> <li>iii. 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.</li> </ul>	ITP Condition # 8.8	Entire Project	Permittee	
67	<p>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 onsite under the supervision of the Designated Biologist, has fallen below 75 percent. Both rainfall and humidity records shall be kept onsite and subject to inspection.</p>	ITP Condition # 8.9	Entire Project	Permittee	
68	<p>During the wet season of November 1 to April 14, Covered Activities involving ground disturbance and heavy equipment use (such as excavation, grading and contouring) shall cease 24 hours prior to a 60 percent or greater forecast of rain from the NWS. Construction may continue 24 hours after the rain ceases and there is less than a 60 percent chance of precipitation in the 24-hour forecast. CDFW may approve work when there is a 60 percent or more chance of precipitation in the 24-hour forecast subject to Condition of Approval 8.8 and the following condition:</p> <ul style="list-style-type: none"> <li>i. If work is approved when a greater than 60 percent chance of rain is forecast, the Designated Biologist(s) shall survey the Project site before construction begins EACH day rain is forecast. If rain exceeds 0.25 inches during a 24-hour period, work shall cease until there is a less than 60 percent change of precipitation in the 24-hour forecast. All night-time work and construction-related traffic will be suspended during rain events.</li> </ul>	ITP Condition # 8.10	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
69	The California tiger salamander active season is defined as the period of time during which California tiger salamanders are above ground. During the 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.	ITP Condition # 8.11	Entire Project	Permittee	
70	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, or dikes that could prevent California tiger salamander from crossing or exiting the roadway. If curbs/berms 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 #8.16	Entire Project	Permittee	
71	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 within the area that the Permittee will clear immediately prior to mowing. Permittee shall not disk or till vegetation.	ITP Condition #8.17	Entire Project	Permittee	
72	To prevent inadvertent entrapment of California tiger salamander during construction, the Designated Biologist shall check all excavated open holes, pumps and trenches for California tiger salamander prior to sunrise 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 8.21) 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 at any time a trapped California tiger salamander is discovered by the Designated Biologist or any work crew member, the Designated Biologist shall move the animal to a safe nearby location.	ITP Condition # 8.18	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
73	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 <i>et seq.</i> Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.	ITP Condition # 8.19	Entire Project	Permittee	
74	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. If a California tiger salamander is found, the Designated Biologist shall wait for the individual to move unimpeded to a safe location. If the individual is found within the fenced Project site, the Designated Biologist shall move the individual outside of the construction area (see Condition 8.21). 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 outside of the area of construction.	ITP Condition # 8.20	Entire Project	Permittee	
75	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 areas 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 the ITP (see Condition 8.6). The Designated Biologist shall contact CDFW's Regional Representative within one working day of any relocation incidents. Incidents that do not result in mortality shall be reported in the monthly and final compliance report. At a minimum, the report of the incident shall include the time, location, and circumstances that led to the California tiger salamander being discovered and confined; the location where the California tiger salamander was relocated; and photographs of the incident. All locations shall be geo-referenced and detailed in text.	ITP Condition # 8.21	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
76	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>1</sup> All equipment parts that may come into contact with the water-- vehicle treads, buckets, <i>etc.</i> --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 # 8.22	Entire Project	Permittee	
77	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 and Permittee shall consult to determine measures to address non-native or hybrid populations.	ITP Condition # 8.23	Entire Project	Permittee	
78	Any bullfrogs ( <i>Rana catesbeiana</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. BB or pellet guns are prohibited. CDFW may issue a permit to take and dispose of frogs under such limitations as the commission may prescribe (Fish & G. 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) within 1.3 miles of potential or known California tiger salamander breeding sites.	ITP Condition # 8.24	Entire Project	Permittee	
79	At no time shall Permittee or its representatives capture, pursue, or otherwise attempt to handle a San Joaquin kit fox. Permittee shall follow the United States Fish and Wildlife Service's (USFWS) <i>Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance</i> (USFWS 1999).	ITP Condition # 8.25	Entire Project	Permittee	
80	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 # 8.27	Entire Project	Permittee	

<sup>1</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.

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
81	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 # 8.28	Entire Project	Permittee	
82	Destruction of 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 is discovered inside the den, excavation shall cease immediately and monitoring of the den as described above 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 # 8.29	Entire Project	Permittee	
83	Permittee shall restore on-site the 368.79 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions. Within 6 months of issuance of this ITP, the Permittee shall prepare a Restoration Plan pursuant to ITP Condition 6.15 to facilitate revegetation of the 368.79 acres of temporary construction disturbance on-site, and shall ensure that the Restoration Plan is successfully implemented by the contractor. The Restoration Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods.	ITP Condition # 9.6	Entire Project	Permittee	
<b>POST-CONSTRUCTION</b>					
84	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, and no additional ground disturbing activities shall occur; (2) if the impact area is within 1,000 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 Condition 6.15). Impacts not meeting this temporary impact definition are considered permanent impacts, and the ITP only authorizes up to 50.8 acres of permanent impact.	ITP Condition # 6.14	Entire Project	CDFW	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
85	<p>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. If restoration has been successful as outlined in Condition of Approval 6.15.2, Permittee may submit the following report at the end of Year 1 and annually thereafter.</p> <p>If the survival and/or cover requirements are not meeting the performance standards outlined in Condition of Approval 6.15.2, 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 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 # 6.15.3	Post-construction	Permittee	
86	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 # 6.28	Post-construction	Permittee	
87	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 the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 7.9	Post-construction	Permittee	

## Attachment 5

### Amended Incidental Take Permit No. 2081-2014-034-03 Amendment 3

1. CDFW Region 3 address was updated and numerical headings were added throughout the ITP.
2. The Authority section has been amended as follows:

#### Authority:

This [Amended](#) California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the 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> CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

<b>Permittee:</b>	<b>Golden Hills Wind, LLC/Daniel Neville, Project Director-Renewable Development</b>
<b>Principal Officer:</b>	<b>Matthew Handel, Vice President- Development</b> <a href="mailto:Matt.Handel@nexteraenergy.com">Matt.Handel@nexteraenergy.com</a>  <b>Jonathan T. Bain, Vice President, Power Generation Operations</b> <a href="mailto:Jonathan.Bain@nexteraenergy.com">Jonathan.Bain@nexteraenergy.com</a> , (561) 691-2282
<b>Contact Person:</b>	<b>Craig Lawrence, Environmental Project Manager</b> <a href="mailto:Craig.Lawrence@nexteraenergy.com">Craig.Lawrence@nexteraenergy.com</a> , (510) 703-5680
<b>Mailing Address:</b>	<b>Next Era Energy Resources</b> <b>700 Universe Boulevard</b> <b>Juno Beach, FL 33408</b>

3. The Amended ITP Background section has been added as follows:

<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.

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

On April 8, 2015, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2014-034-03 (ITP) to Golden Hills Wind LLC (Permittee) authorizing take of California tiger salamander (*Ambystoma californiense*) and San Joaquin kit fox (*Vulpes macrotis mutica*) (collectively, the Covered Species) associated with and incidental to the Golden Hills Energy Facility Repowering Project in Alameda County, California (Project). The Project as described in the ITP originally issued by CDFW included repowering the existing wind energy facility to replace outdated wind turbine generators (WTG) with fewer and more efficient WTGs. The Project involved decommissioning a maximum of 775 existing WTGs and repowering by installing up to 48 new WTGs at new pad sites. The Project also included building new access roads, widening existing roads, constructing new laydown yards, installing roadside rock-lined ditches and underground electrical collector lines, installing meteorological towers, and improving related infrastructure. Ground-disturbing work associated with Project repowering and associated activities was completed in October 2015 and turbine assembly was completed in early 2016. After repowering, the Project was expected to have up to 81.6 megawatts (MW) of installed capacity but it increased to 85.92 MW post-construction.

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 San Joaquin kit fox and California tiger salamander habitat: 50.9 acres of permanent habitat loss (49.9 acres of upland habitat and 1.01 acres of aquatic habitat) and 204.5 acres of temporary upland habitat loss.

On April 23, 2018, CDFW approved Major Amendment 1 which corrected the name of the Permittee and mailing address, allowed for pond creation, increased take authorization, increased the amount of compensatory mitigation -required, extended the timeframe for securing the additional compensatory mitigation, and increased the number of acres of temporary loss of Covered Species habitat that the Permittee is required to restore from 204.5 acres to 354.4 acres.

As compensatory mitigation for the Project's impacts, Permittee established the Golden Hills Ecological Preserve (GHEP) which was protected in perpetuity under two conservation easements [Sweet Ranch parcel on October 10, 2018 and Alameda County Waste Management Authority (ACWMA) parcel on December 21, 2018]. The GHEP is a total of approximately 523.61 acres in size. A total of approximately 0.49 acre of suitable California tiger salamander breeding habitat was proposed to be created (Pond S-1) at the GHEP –

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

## Sweet Ranch and enhanced at GHEP - ACWMA.

After the recordation of the GHEP conservation easements, it was determined that creation of the 0.49 acre of suitable pond breeding habitat on GHEP-Sweet Ranch was not feasible, due to site constraints that were incorrectly evaluated during the original pond conceptual design process. The modified development plan for Pond S-1 re-established 0.03 acres of aquatic habitat at Pond S-1, which is consistent with the historic pond at this location. Permittee proposed to provide supplemental aquatic habitat mitigation for the Project at an off-site location protected by a conservation easement. In addition, an approximately 3-acre boundary discrepancy was discovered on the northern boundary at GHEP-Sweet Ranch.

On June 8, 2022, CDFW approved Major Amendment 2, which authorized additional temporary (11.2 acres) and permanent (0.012 acres) impacts associated with the Golden Hills Transmission Line Wildfire Mitigation Project (Wildfire Mitigation Project). -The Amendment also describes the changes to the GHEP-Sweet Ranch aquatic breeding habitat compensation and boundary adjustments with proposed compensation for the shortfall at an off-site location as described above. In addition, Amendment 2 updated Permittee contact information and updated the required compensatory mitigation.

On December 12, 2024, CDFW received a request from the Permittee for a major amendment to the ITP, as amended, and on December 31, 2024, CDFW received the corresponding fee payment. Permittee requests to decrease the total impacts from the Wildfire Mitigation Project from 11.2 acres to 6.39 acres of temporary impacts and from 0.012 acres to 0.003 acres of permanent impacts, add maintenance activities as a Covered Activity, increase the temporary impact acreage of 8.0 acres to include maintenance activities, extend the timeframe for the Permittee to acquire compensatory mitigation, increase the amount of compensatory mitigation and Security, and extend the permit term.

CDFW now reissues this ITP including the revised provisions in all previous and this third Major Amendment (collectively, the Amended ITP). The Amended ITP includes all the operative provisions as of the effective date of this Amended ITP. Attachment 5 to this Amended ITP shows the specific red-line changes made to the original ITP as a result of this Major Amendment.

### **4. The Effective Date and Expiration Date section of this ITP has been amended as follows:**

#### **Effective Date and Expiration Date of this ITP:**

The original ITP's effective date was April 8, 2015. 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, 2035**. This ITP will renew for an additional 10-year term after that date so long as the Permittee

satisfies the terms section below ("Permit Term") and receives the requisite authorization from CDFW under that section. Any renewal terms may only extend this ITP and its incidental take authorization to a final date of **December 31, 2045**.

### **Permit Term:**

This ITP and its take authorization may be renewed for an additional 10-year term beyond the expiration date above, consistent with the terms of this section. If Permittee seeks a renewal under this section, it will prepare and submit to CDFW a timely and complete 10-year Compliance Report consistent with the requirements of this section at least 180 days prior to the expiration date of this ITP or the expiration of any subsequent 10-year renewal term, whichever is applicable.

The 10-year Compliance Report shall include, at a minimum, the following information:

1. A list of maintenance and repair projects completed over the prior 10-year period, including any projects that are currently in progress;
2. Acreages of impacts to Covered Species habitat(s) over the prior 10-year period, along with GIS mapping depicting impacts to Covered Species habitat(s) over the last ten years;
3. Total acres and GIS mapping depicting Habitat Management lands that were preserved both during the last 10-year period and since the permit was executed;
4. Total acres and GIS mapping depicting on-site restoration of temporarily impacted Covered Species habitat pursuant to Condition of Approval 6.14;
5. Number of individuals for each of the Covered Species known to be taken or relocated during the last 10-year period;
6. A copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure;
7. An assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing, and mitigating Project impacts;
8. An assessment of whether the Covered Activities and Project Description for future Repairs and Maintenance are still accurate;
9. Any new information relevant to the conservation of the Covered Species and/or to the Project Area.

Permittee shall meet and confer with CDFW within 60 days after the 10-year Compliance Report submittal to discuss the report and any outstanding or reasonably foreseeable ITP



compliance issues. Within 30 days following that meeting, if CDFW determines that there are any outstanding or reasonably foreseeable ITP compliance issues, CDFW shall provide a letter describing those ITP compliance issues and what actions CDFW finds are necessary for the Permittee to remain in or come into compliance with the terms of this ITP. Within 30 days of receiving CDFW's letter, the Permittee shall provide CDFW a written response describing the remedial actions that will be taken by the Permittee to resolve any actual or potential compliance issues. Permittee shall confer with CDFW to confirm the proposed remedial actions by the Permittee are designed to bring the Permittee into compliance with the terms of the ITP. If CDFW determines that there are either no outstanding ITP compliance issues or that remedial actions proposed by the Permittee under this section are designed to bring the Permittee into compliance with this ITP and/or CESA, CDFW shall provide a letter extending the ITP term for an additional 10-year term, not to exceed a final expiration date of December 31, 2045. CDFW may require an amendment to this ITP if it determines such action is either necessary to enforce the proposed remedial actions or would otherwise be necessary under the circumstances. In particular, 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, the Permittee shall submit a request for an amendment pursuant to Title 14, Section 783.6 of the California Code of Regulations and associated fee based on the fee schedule at time of submittal.

If the Permittee fails to submit a timely and complete 10-year Compliance Report, substantially fails to meet the requirements, standards, and/or timelines in this section, or if CDFW is unable to determine that proposed remedial actions by the Permittee are designed to bring the Permittee into compliance with the terms of this ITP and/or CESA, this ITP will automatically expire as of the date listed in Section II, above, or the terms of the most recent renewal letter from CDFW under this section, whichever is applicable.

Nothing in this section shall be construed as any limitation whatsoever on CDFW's authority to enforce the terms of this ITP and/or the requirements of CESA and associated regulations as they apply to the Permittee and/or the Project.

~~This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 31, 2024.**~~

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.

## 5. The Project Description section has been amended as follows:

### Project Description:

The Project includes repowering the existing wind energy facility to replace outdated wind turbine generators (WTG) with fewer and more efficient WTGs. The Project involves decommissioning a maximum of 775 existing WTGs and repowering by installing up to 48 new WTGs at new pad sites. After repowering, the Project will have up to 81.6 megawatts (MW) of installed capacity. The Project includes building new access roads, widening existing roads, constructing new laydown yards, installing roadside rock-lined ditches and underground electrical collector lines, installing meteorological towers, and improving related infrastructure.

\* \* \*

~~Project~~ Operation of the wind turbines, which is expected to extend until approximately 2045, is not a covered activity under this ITP. Final decommissioning of the facility and subsequent reclamation of the site are also not covered under this ITP, and will undergo a separate permitting process.

### *GHEP -Sweet Ranch - Pond Development*

The Permittee proposes to restore to original size, approximately 0.03 acre of suitable pond breeding habitat (Pond S-1) for California red-legged frog and California tiger salamander at the GHEP – Sweet Ranch, in accordance with the draft development plan titled Breeding Habitat Mitigation and Monitoring for California Red-legged Frog and California Tiger Salamander at the Golden Hills Ecological Preserve at Sweet Ranch (Pond Habitat Development Plan). ~~The final Pond Habitat Development Plan will be subject to CDFW review and approval.~~ The Pond Habitat Development Plan was amended and approved by CDFW in July 2022.

### GHEP-ACWMA Pond Enhancement~~ACWMA~~

Habitat enhancement of approximately 0.20 acres of existing pond breeding habitat will be performed at GHEP – ACWMA through invasive bullfrog eradication activities. Pond A-1, located on GHEP-ACWMA, may be dewatered for predatory control.

### *Golden Hills Transmission Line Wildfire Mitigation Project*

The Golden Hills Transmission Line Wildfire Mitigation Project (Wildfire Mitigation Project) will remove 53 pole structures (51 wood and 2 steel) and replace them with 31 steel monopoles between the Midway and the Pacific Gas and Electric Tesla substations. The purpose of the Wildfire Mitigation Project is to reduce the potential damage from wildfire by installing fire-resistant, steel monopoles as part of Permittee's fire hardening program.

To facilitate the pole removal and replacement, previously disturbed and restored/developed areas will be used to the maximum extent possible to avoid and minimize impacts to annual grassland. This includes the use of existing roads for access and staging and minimizing the temporary construction work areas. As a result, most of the impacts will be temporary (~~11.2~~ 6.39 acres) and will be restored/revegetated following construction. Permanent impacts (~~0.04203~~ 0.003 acre) will be limited to the diameter of the new steel monopoles. In addition to on-site restoration of the disturbed areas, temporary and permanent impacts will be further offset by establishing an additional 6.4 acres of compensatory habitat ~~11.238 acres of conservation easement at the proposed Golden Hills Ecological Preserve at Walker Ranch.~~

\* \* \*

### Future Repairs and Maintenance

Future unforeseen maintenance activities include rotor repair and repairs to any components of the facility (for example, WTG, cables, and transformers). The future rotor repair and maintenance activities are expected to result in 8.0 acres of temporary disturbance during the term of the Amended ITP.

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

### **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: transport of supplies and workers to and from the Project, storage of construction materials and equipment on site, grading, trenching, augering, and other earthmoving activities associated with construction, reclamation, re-contouring and restoration activities, vegetation management, pond monitoring, repairs and maintenance, and/or relocation activities prescribed by this ITP (Covered Activities).

\* \* \*

The Project ~~is~~ is was expected to cause the permanent loss of ~~a total of 50.81250.8~~ a total of 50.81250.8 acres and temporary disturbance of ~~365.6~~ 368.79 acres of upland habitat. Of those total amounts, t~~The Wildfire Mitigation Project is anticipated to resulted~~ in 11.2 6.39 acres of temporary impacts and ~~0.042~~ 0.003 acre of permanent impacts to annual grassland that supports suitable upland estivation and dispersal habitat for California tiger salamander and denning and foraging habitat for San Joaquin kit fox. The future rotor repair and maintenance activities are expected to result in 8.0 acres of temporary disturbance during the term of the Amended ITP.

\* \* \*

The temporary impacts will result from the cut/fill of roads, construction of new turbine staging areas, installation of underground collection lines, ~~and~~ reclamation of existing turbine pads, and repair and maintenance activities. Temporary impacts from the Wildfire Mitigation Project will be the result of the establishment and use of work areas, access and staging areas, steel monopole installation, line conducting, wooden pole removal, and guy wire removal.

## 7. The Conditions of Approval section has been amended as follows:

### Conditions of Approval:

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

\* \* \*

- 6.12 Additional Impacts to Habitat. No take beyond the permanent loss of ~~50.812~~ 50.8 acres of habitat for the Covered Species and temporary loss of ~~365.6~~ 368.79 acres of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts. 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 (see ITP Condition 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, then these areas shall be considered semi-permanent or permanent depending on the timing of restoration and achievement of performance standards (see ITP Condition 6.15).
- 6.13 Project Access. Project-related personnel shall access the Project Area using existing routes or routes identified in Figure 2 and 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.

### *Temporary Impacts and Restoration*

- 6.14 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, and no additional ground disturbing activities shall occur; (2) if the impact area is within 1,000 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 Condition 6.15). Impacts not meeting this temporary impact definition are considered permanent impacts, and this ITP only authorizes up to ~~50.8~~1250.8 acres of permanent impact.

\* \* \*

## 7. Monitoring, Notification and Reporting Provisions:

\* \* \*

- 7.6 Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 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. Repair and maintenance activities are not required to be submitted monthly, but they shall be included in Annual Reports.

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 6.14. 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 Condition of Approval 6.15.

Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud~~Brenda Blinn~~ (Marcia.Grefsrud@wildlife.ca.gov~~Brenda.Blinn@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.

\* \* \*

- 7.10 Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at ~~(707) 944-5500~~(707) 428-2002 and (707) 644-2812 (direct line of CDFW Regional Representative). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

\* \* \*

## 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 the Covered Species that will result with 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 acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall either purchase a total of ~~525.7528.89~~ acres (includes the 3.0-acre shortfall from ITP Amendment 2) of Covered Species credits (~~525.7528.89~~ acres of San Joaquin kit fox credits and ~~522.3525.49~~ acres of California tiger salamander credits) from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of a total of ~~525.7528.89~~ acres of Habitat Management (HM) lands that include ~~525.7528.89~~ acres of San Joaquin kit fox habitat and ~~522.3525.49~~ acres of California tiger salamander habitat pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Permittee shall provide compensatory habitat following the conservation priorities and mitigation ratios described in the *East Alameda County Conservation Strategy* (Chapter 3, dated October 2010) for the Covered Species as confirmed by CDFW.



Compensatory habitat shall include both upland and California tiger salamander aquatic breeding habitat through preservation, restoration, enhancement, and/or creation of pond habitat that is the same or better quality as habitat that will be impacted. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or within 18 months of the effective date of this ITP or an Amendment if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

Permittee shall also restore on-site ~~365.6~~368.79 acres of temporarily-impacted Covered Species habitat pursuant to Condition of Approval 9.6 below. If any temporary impacts do not meet the criteria identified in Condition 6.14, compensatory mitigation to offset the additional Project temporal impacts shall occur at a 2:1 ratio for any semi-permanent impacts restored within 2 years but greater than 1 year and 3:1 for any non-permanent impacts not restored within 2 years. If Condition 6.14 is not achieved, the compensatory mitigation that shall be necessary shall become greater than the ~~525.7~~528.89 acres identified above. 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. CDFW has estimated the cost of 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 \$15,000/acre for ~~525.7~~528.89 acres: ~~\$7,885,500.00~~ 7,933,350.00. Land acquisitions costs are estimated using local fair market current value 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 9.3.5 below, estimated at **\$76,000.00**;

9.1.3 Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at **\$114,000.00**;

9.1.4 Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$3,000.00/acre for ~~525.7~~528.89 acres: ~~\$1,577,100.00~~ 1,586,670.00. 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 **\$3,000.00**.

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 ~~365-6368.79~~ acres: ~~\$1,279,600.00~~ 1,290,765.00.

9.2 Covered Species Credits. Permittee shall purchase ~~525.7~~ 528.89 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 or an Amendment if Security is provided pursuant to Condition of Approval 10 below.

\* \* \*

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9.6 Habitat Restoration. Permittee shall restore on-site the ~~365-6368.79~~ acres of Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions. Within 6 months of issuance of this ITP or an Amendment, the Permittee shall prepare a Restoration Plan pursuant to ITP Condition 6.15 to facilitate revegetation of the ~~365.6-368.79~~ acres of temporary construction disturbance on-site, and shall ensure that the Restoration Plan is successfully implemented by the contractor. The Restoration Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods.

## 10. Performance Security

The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 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 ~~\$10,935,200.00 (an increase of \$242,600.00)~~ 11,003,785.00 (an increase of \$68,585.00 from Amendment 2). This amount is based on the cost estimates identified in Condition of Approval 9.1 above.

\* \* \*

## 8. The Stop-Work Order section has been amended as follows:

### Stop-Work Order:

GOLDEN HILLS WIND, LLC/~~DANIEL NELVILLE, PROJECT DIRECTOR-RENEWABLE DEVELOPMENT~~GOLDEN GOLDEN

Incidental Take Permit  
No. 2081-2014-034-03  
HILLS ENERGY FACILITY  
REPOWERING PROJECT



If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, or fully protected species designated in the Fish and Game Code, 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, and is included in this ITP by reference. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders. CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

## **9. The Liability section has been added as follows:**

### **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.

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.

**10. The Notices section has been amended as follows:**

**Notices:**

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

Habitat Conservation Planning Branch  
California Department of Fish and Wildlife  
Attention: CESA Permitting Program  
1416 Ninth Street, Suite 1260  
Sacramento, CA 95814

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW [email or](#) by 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 (2081-2014-034-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

~~Scott Wilson~~[Erin Chappell](#), Regional Manager  
California Department of Fish and Wildlife – [Bay Delta Region](#)  
~~7329 Silverado Trail~~  
~~Napa, CA 94558~~[2825 Cordelia Road, Suite 100](#)  
~~Fairfield, CA 94534~~  
Telephone (707) ~~944-5500~~[428-2002](#)  
Fax (707) ~~944-5563~~  
[R3CESA@wildlife.ca.gov](mailto:R3CESA@wildlife.ca.gov)

[and a copy to:](#)

[Habitat Conservation Planning Branch](#)  
[California Department of Fish and Wildlife](#)  
[Attention: CESA Permitting Program](#)  
[Post Office Box 944209](#)  
[Sacramento, CA 94244-2090](#)  
[CESA@wildlife.ca.gov](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~~[Marcia Grefsrud](#), Environmental Scientist  
(Supervisory)  
California Department of Fish and Wildlife – [Bay Delta Region](#)  
~~7329 Silverado Trail~~  
~~Napa, CA 94558~~[2825 Cordelia Road, Suite 100](#)  
[Fairfield, CA 94534](#)  
Telephone (707) ~~944-5541~~[644-2812](#)  
~~Fax (707) 944-5563~~  
[Marcia.Grefsrud@wildlife.ca.gov](mailto:Marcia.Grefsrud@wildlife.ca.gov)

## 11. The Findings Pursuant to CEQA section has been amended as follows:

### Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, 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 17, 2014. 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 any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

[None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or](#)

California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Major Amendment No. 3.

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

### **Findings Pursuant to CESA:**

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

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

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) restoration and 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 525.7 528.89 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;

(7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and

(8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

(9) CDFW finds that this Amendment is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

(10) Issuance of this Amendment will increase the amount of take of the Covered Species compared to the Project as originally approved. The additional impacts of the taking will be minimized and fully mitigated through the Conditions of approval set forth in the ITP. 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)).

~~(8)~~(11) 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).

### 13. The Attachment section has been amended as follows:

#### Attachments:

FIGURE 1	Map of Project Location
FIGURE 2	Project Layout
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2A, 2B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

ATTACHMENT 5      Major Amendment 3 with Track Changes

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

on \_\_\_\_\_

\_\_\_\_\_  
Scott WilsonErin Chappell, Regional  
Manager

Bay Delta Region

**ACKNOWLEDGMENT**

~~The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of this ITP, and (3) agrees on behalf of the Permittee to comply with all terms and conditions~~

By: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

GOLDEN HILLS WIND, LLC/DANIEL NELVILLE, PROJECT DIRECTOR-RENEWABLE DEVELOPMENTGOLDEN GOLDEN

\_\_\_\_\_  
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