

CHECKLIST OF DOCUMENTS FOR PERMITTEE RESPONSIBLE HABITAT MITIGATION LAND PROPERTY ANALYSIS AND PROTECTION

The California Department of Fish and Wildlife (CDFW) requests documents to help evaluate property proposed by Permittees as Habitat Mitigation Land Acquisition (HMLA) to comply with CDFW permits and approvals (e.g., incidental take permits, lake or streambed alteration agreements, advance mitigation, etc.). CDFW regional staff, who are the primary point of contact for all HMLA projects, as well as the CDFW Mitigation Property Document Analysis (MPDA) Team, typically consisting of a right of way (ROW) agent and a senior land surveyor, will analyze the documents provided before the property is protected by the conveyance of either fee title or a conservation easement over the property. ***Early consultation with CDFW is encouraged for any clarification necessary with this checklist.***

In Stage 1 (Property Eligibility Review), the CDFW regional staff conducts a site visit of the proposed mitigation property to determine biological suitability to meet compensatory obligation permit requirements and concurrently, the CDFW MPDA Team conducts an analysis of property related documents. If the CDFW regional staff, with support from the MPDA Team, determines the property is eligible, the CDFW regional staff will notify the Permittee that they may proceed to Stage 2.

Stage 2 (Property Acceptance Review) begins after the CDFW regional staff has provided the Permittee with written notice or an email that the property is eligible to move forward. The Stage 2 process is intended to confirm and ultimately protect the acreage stated in the permit as required mitigation. Updates and additional documents will be requested at this time to evaluate the full HMLA package. CDFW's MPDA Team analyzes the real property documents and provides recommendations to the regional staff who will accept or reject the property as mitigation based on a thorough analysis of property information. If the property is accepted, the regional staff will notify the Permittee they may proceed with Stage 3.

Stage 3 (Property Protection and Closing Documentation) takes place after the property has been accepted as mitigation by CDFW. During this stage, the property will be protected by recording documents transferring fee title or a conservation easement and closing the real estate transaction. This stage ensures that CDFW is provided a copy of all closing documentation for permit compliance.

Submit all documents electronically, with file names following the document names in this checklist and using the [Mitigation Land Package Document File Naming Convention](#), to the [CDFW regional office](#) that serves the project area. As applicable, within the documents, consistently reference the project name and CDFW permit number. Use of an FTP site is encouraged for efficient electronic transfer of files. See [Folder structure instructions](#) for how to sort the documents in an FTP site.

DOCUMENT AND STAGE PROCESS SUMMARY

Items below may not be applicable in all cases. Subsequent pages provide details for each item.

STAGE 1: Property Eligibility Review

1. **Biological Report**
2. **Habitat Mitigation Land Title Information**
3. **Preliminary Title Report Including Plottable Easement Maps**
4. **Keyhole Markup Zip compressed (KMZ) Placement File of Assessor's Parcel(s)**
5. **Phase I Environmental Site Assessment Report**
6. **Mineral Risk Assessment Report (if mineral rights have been severed)**
7. **Grantor Business Verification Documentation**
8. **Items Completed by CDFW**

STAGE 2: Property Acceptance Review

9. **Land Survey Products**
10. **Draft Legal Access Easement or Documented Evidence of Existing Legal Access**
11. **UPDATED Phase I Environmental Site Assessment Report, if applicable**
12. **(A) DRAFT Grant Deed with HCPB Surveyor approved Exhibit(s)**
OR
(B) DRAFT Conservation Easement Deed with HCPB Surveyor approved Exhibit(s)
13. **Checklist for Entities being Considered to Hold Conservation Easements or Manage and Steward Mitigation Land (Due Diligence)**
14. **Draft Subordination Agreement(s) or Other Draft Agreements**
15. **Draft Management Plan(s) (e.g., Interim & Long-Term Management Plan)**
16. **Updated Preliminary Title Report, if applicable**
17. **Grantor's Authority and Signatory Authorization to convey the property rights**
18. **Grantee's Authority and Signatory Authorization to accept the property rights**
19. **Pro Forma Title Insurance Policy**
20. **Draft Escrow Instructions**

STAGE 3: Property Protection and Closing Documentation

21. **Digital Closing Package**
22. **Final Long-Term Management Plan and Endowment Agreement**

DOCUMENT PROCESS DETAILS

STAGE 1: Property Eligibility Review

1. **Biological Report:** Describe the baseline conditions of biological resources on the proposed property, such as historical and current land use, vegetation communities, invasive plant or animal species, soil types, presence of water features such as streams or wetlands, habitats of special status and common species, observations of special status species, any species survey results, and any development on the property or other threats to biological resources. Specifically provide details regarding baseline conditions of the habitat and population of the target species (e.g., Covered Species in the incidental take permit) or other target resource (e.g., riparian habitat) and how the property would benefit the conservation of the target species or other resource.
2. **Habitat Mitigation Land Title Information:** Complete the [form provided](#) by CDFW. Return the information to the CDFW regional office that serves the project area. Include a copy of all unrecorded documents and/or interests affecting title (e.g., contract, lease, license, prescriptive easement, etc.).
3. **Preliminary Title Report (PTR) Including Plottable Easement Maps:** Dated within 90 days of submission. All encumbrance documents affecting title as described in the PTR (Exceptions) must have an active hyperlink, including a link to the assessor's parcel map, vesting deed, and all supporting documents embedded in the legal description(s) of the entire property. Each document affecting title must be provided in a separate PDF document and labeled by the recording number (i.e., Instrument or Document # [number] or Book [number] Page [number]). Work with CDFW regional staff to submit files electronically using a file transfer protocol (FTP) or similar site to download each file for transfer to regional staff. Also, request from the title provider an plottable easement maps on title.
4. **Keyhole Markup Zip compressed (KMZ) Placement File of Assessor's Parcel(s):** Data associated with the spatial features should include assessor parcel number(s) (APN) and project name. Identify layer as either property boundary/parcel or, if a portion of the property, the easement area.
5. **Phase I Environmental Site Assessment Report:** Refer to the CDFW [Phase I Reference](#) for important information on expired and stale reports.
6. **Mineral Risk Assessment Report (if mineral rights have been severed):** If any of the mineral rights associated with the property have been granted, transferred, abandoned, reserved, or relinquished, a Mineral Risk Assessment Report, prepared by a California licensed geologist (stamped and signed), that includes a "mineral remoteness opinion" is requested to assess the minerals present on or under the property and to determine the probability, or potential for future development.
7. **Grantor Business Verification Documentation:** Entities that wish to conduct business in California must be validly formed, registered to do business, and in good standing with the California Secretary of State's Office. Please provide a copy of the [California Certificate of Good](#)

[Standing from the Secretary of State.](#)

8. Items Completed by CDFW:

- a) Site Visit. CDFW regional staff will conduct a site visit to evaluate property eligibility, including acreage and biological suitability. Items 1-6 are used to inform the site visit. CDFW regional staff will submit documentation of the site visit to the ROW agent.
- b) Appendix D. Completed with input from the Mineral Risk Assessment Report, if applicable.

If CDFW determines the property is eligible, regional staff will notify the Permittee in writing that it may proceed to Stage 2.

STAGE 2: Property Acceptance Review

9. Land Survey Products: See the [Land Survey Reference Guide](#) for list, descriptions, and details.

10. Draft Legal Access Easement or Documented Evidence of Existing Legal Access: Provide information describing legal access to the HM Land in the form of a narrative and simple map. If no legal access has been given, provide a draft Access Agreement and explanation and map of the route that will be taken once legal access is recorded. Please submit with the Land Survey Products described in Item 9. *Note: A Draft Access Agreement will be reviewed by CDFW legal counsel.*

11. UPDATED Phase I Environmental Site Assessment Report: Refer to the CDFW [Phase I Reference](#) for important information on expired and stale reports. If requested by CDFW, provide either a new or updated Phase 1 Environmental Site Assessment Report.

12. (A) DRAFT Grant Deed with Exhibit(s): Applies when fee title will be granted to CDFW/the State. Contact CDFW for grant deed sample (MS Word). See the [Land Survey Reference Guide](#) regarding the exhibits.

- Exhibit A – Legal Description and Plat Map of Subject Property: See the Land Survey Reference Guide for list, descriptions, and details.

OR

(B) DRAFT Conservation Easement Deed with Exhibit(s): Applies when a conservation easement will be granted. Contact CDFW for conservation easement sample; use Microsoft Word track changes (redline) to show any changes to the sample. If the DRAFT conservation easement deviates from the sample, CDFW legal counsel will need to review it. Provide CDFW digital copies of all documents referenced in the draft conservation easement deed (e.g., Long-Term Management Plan). See the [Land Survey Reference Guide](#) regarding the exhibits.

- Exhibits A and A-1 – Legal Description and Plat Map of Entire Property: See the [Land Survey Reference Guide](#) for list, descriptions, and details (approved by HCPB Surveyor).
- Exhibits B and B-1 – Legal Description(s) and Plat Map(s) of Conservation Easement Area (only applicable if a portion of the entire property): See the [Land Survey Reference Guide](#) for list, descriptions, and details approved by HCPB Surveyor.

13. [Checklist for Entities being Considered to Hold Conservation Easements or Manage and Steward Mitigation Land \(Due Diligence\)](#): Government Code section 65967, subdivision (c) requires a state or local agency to exercise due diligence when approving governmental entities, special districts, and non-profit organizations proposed to hold conservation easements or

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manage and steward mitigation lands. CDFW regional staff will review the qualifications of the entity(ies) proposed on a project-by-project basis. Because this determination is made on a project-by-project basis, CDFW may provide a checklist to entities proposed to hold conservation easements or manage and steward mitigation lands requesting a list of documents to review the entity's qualifications. Document requests are based on (among other things) the entity type, previous submittals, and property specific information. For more information, see CDFW's [Endowments and Mitigation Land Management website](#).

- 14. Draft Subordination Agreement(s):** May be applicable when there is a lien, mortgage, encumbrance, or other interest affecting title that may conflict or otherwise be inconsistent with the conservation easement. *Note: Draft subordination agreements must be reviewed by CDFW legal counsel.*
- 15. Draft Management Plan (e.g., Interim & Long-Term Management Plan):** Include applicable restoration, interim, and long-term management plans required by the permit that follow example(s) or other guidance provided by CDFW. Interim and long-term management plans must include monitoring and management actions of the target species and its habitat or other resources to ensure continued existence on the property in perpetuity. CDFW has a [Habitat Mitigation Land Management Plan Template](#) which permittees are encouraged to use. The long-term management plan must include an endowment assessment (similar to a Property Analysis Record (PAR)) to calculate the funding necessary to ensure the long-term management of the lands. When CDFW assumes the role of the grantee of a conservation easement, the Permittee must also provide a monitoring endowment assessment calculating the funding necessary to ensure in-perpetuity monitoring of the conservation easement.
- 16. Updated Preliminary Title Report:** If the latest preliminary title report is older than 12 months, CDFW may request updates throughout Stage 2 analysis.
- 17. Grantor's Authority and Signatory Authorization to transfer the property rights:** Written documentation (e.g., written consent or board resolution) verifying the grantor's authority to convey the property interest and designating the authorized signatory for all project documents. If the grantor is an individual person or family trust, authorization will be verified by the title or escrow company/provider (see Item 2 above).
- 18. Grantee's Authority and Signatory Authorization to accept the property rights.** Written documentation (e.g., board resolution from the land trust) verifying the grantee's authority to accept the property interest and designating the authorized signatory for all real estate documents.
- 19. Pro Forma Title Insurance Policy:** Pro forma (draft) title insurance policy with legal description(s) of the property interest to be insured and the name(s) of the grantee to be the insured. Legal descriptions in the pro forma should be consistent with the CDFW senior land surveyor-approved exhibit(s).
- 20. Draft Escrow Instructions:** To be reviewed by CDFW ROW agent before the close of escrow. Instructions should include instructions to the title or escrow officer to record all negotiated documents, e.g., conservation easement or grant deed, and any other ancillary documents (subordination agreement, access agreement, etc., transfer any monies, obtain title insurance

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and to email a digital closing package, including digital copies of all recorded documents, closing statement, and a copy of the title policy (when available) to the CDFW regional staff and CDFW ROW agent. When CDFW is grantee, contact CDFW ROW agent regarding escrow instructions.

After the analysis of all the above-described Stage 2 documents has been completed, the ROW agent will provide regional staff with an internal recommendation for recording. The regional staff will conduct other internal approvals, and when completed, if they determine the property is accepted, regional staff will provide the Permittee a formal approval to move forward with the recording of all necessary documents, e.g., Conservation Easement, and any other necessary documents (Access Agreement, Subordination Agreement, etc.), purchase title insurance, and/or transfer endowments in escrow. In some cases, wherein no monies will transfer, a Title Company officer may conduct the recording.

STAGE 3: Closing Property Protection Documentation

- 21. Digital Closing Package:** Once the real estate transaction has been recorded, the title or escrow provider will provide regional staff and the ROW agent a Digital Closing Package that includes digital copies of all recorded documents, settlement/closing statement, and when available, a copy of the title insurance policy via email to regional project manager and MPDA ROW agent
- 22. Final Long-Term Management Plan and Endowment Agreement:** Submit electronically to CDFW regional office. Please note that the Final Long-Term Management Plan should be approved before recording the conservation easement.