



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

California Endangered Species Act  
 Incidental Take Permit No. 2081-2024-019-03

**SUNOL VALLEY WATER TREATMENT PLANT OZONATION PROJECT**

**I. Authority:**

This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. with respect to California tiger salamander (*Ambystoma californiense*) and Alameda whipsnake (*Masticophis lateralis euryxanthus*). CESA prohibits the take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> However, CDFW may authorize the take of any such species by permit pursuant to the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c). (See Cal. Code Regs., tit. 14, § 783.4).

CDFW also issued this ITP pursuant to Fish and Game Code section 2081.15 with respect to golden eagle (*Aquila chrysaetos*). Section 3511 of the Fish and Game Code prohibits the take of fully protected birds specified in Fish and Game Code section 3511, subdivision (b). However, for qualifying projects CDFW may authorize the take of any such species by permit pursuant to the conditions set forth in Fish and Game Code section 2081.15, subdivisions (a), (b), (c), and (d).<sup>3</sup>

|                           |                                                                                                                          |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------|
| <b>Permittee:</b>         | <b>San Francisco Public Utilities Commission</b>                                                                         |
| <b>Principal Officer:</b> | <b>Susan Hou, Project Manager, <a href="mailto:shou@sfwater.org">shou@sfwater.org</a></b>                                |
| <b>Contact Person:</b>    | <b>Jonathan Mates-Muchin, 628-333-1149,<br/><a href="mailto:jmates-muchin@sfwater.org">jmates-muchin@sfwater.org</a></b> |
| <b>Mailing Address:</b>   | <b>525 Golden Gate Avenue, 9th Floor<br/>San Francisco, CA 94102</b>                                                     |

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

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

<sup>3</sup>Senate Bill 147 added section 2081.15 to the Fish and Game Code to allow CDFW to authorize the take of a fully protected species in sections 3511, 4700, 5050, and 5515. Section 2081.15, subdivision (b) specifies the projects or categories of projects eligible for a take authorization permit pursuant to section 2081.15.

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

This ITP shall become effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **December 31, 2029**.

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 6.8 of this ITP.

## III. Project Location:

The Project is located at 8653 Calaveras Road within unincorporated area of Sunol in Alameda County (See Figure 1). Additional Project locations include the San Antonio Pump Station and the former nursery site shown on Figure 1. The Project is located approximately 3.5 miles south of I-680 at approximately 37°32'23.14"N, 121°51'28.21"W.

## IV. Project Description:

The Project includes the construction of a new ozonation facility, a new utility/fire water pump station (UWPS), and repairs to existing treatment facilities at the Sunol Valley Water Treatment Plant (SVWTP) which overall will improve its operation and functions.

The Permittee will also conduct electrical equipment upgrades at facilities that deliver power to the treatment plant to ensure that operation of the ozonation facility does not cause overloads on the Calaveras substation main transformer approximately two miles north of the plant at the San Antonio Pump Station.

The former tree nursery site adjacent to Calaveras Road will be used for construction staging. The former tree nursery contains a mix of gravel-lined former plant beds and access roads within the site surrounding the former plant beds, ruderal and California annual grassland with some coast live oak woodland along the site boundaries.

## Project Details

The Project includes construction of the following facilities and improvements at the existing SVWTP and associated sites:

- Construction of a new ozonation facility on a developed 2.7-acre site at the SVWTP.
- Relocation of an existing radio tower to a new location at the northwest corner of the SVWTP near the existing wash water tank.
- Upgrades to existing facilities at the plant, including the cationic polymer system, chemical pipe improvements, and filter air scour piping; repairs and upgrades to the flocculation/sedimentation basins and filters, including replacement of the filter/waste

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valves and sludge collection system; and repair of the settled water conduit leakage at the plant.

- Replacement of an existing UWPS to provide pumping for onsite water in case of emergency.
- Off-site electrical system upgrades at the San Antonio Pump Station and at the south end of the former tree nursery site north of the plant.
- Fencing of an approximately 9.57-acre section of the developed 20.2-acre nursery site for construction staging.

The Project construction activities include demolition/removal and disposal of both organic waste (landscaped trees/shrubs) and structural demolition waste (buried pipes, concrete vaults, manholes, two trailers, and at-grade concrete slabs); excavation; grading; trenching; driving and drilling piles; construction of buildings and concrete structures.

*Construction Timing*

The timing of construction activities is anticipated to be as follows:

1. Ozonation facility construction work began in 2024 and is expected to be completed in approximately four and a half years.
2. Construction for repairs and improvements to existing treatment facilities is anticipated to be completed in approximately four years (December 2028).

*Restoration*

Following completion of the Project, all equipment, materials, and construction waste will be removed from the work and staging areas. In areas where there is no permanent impact, the site will be restored with landscaped native vegetation. The nursery site will remain as a graveled area.

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

This ITP covers the following species:

| <u>Name</u>                                                       | <u>CESA</u> <sup>4</sup> |
|-------------------------------------------------------------------|--------------------------|
| 1. California tiger salamander ( <i>Ambystoma californiense</i> ) | Threatened <sup>5</sup>  |

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

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

2. Alameda whipsnake (*Masticophis lateralis euryxanthus*) Threatened<sup>6</sup>  
also known as Alameda striped racer (*Coluber lateralis euryxanthus*)
3. Golden eagle (*Aquila chrysaetos*) Fully Protected<sup>7</sup>

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

## VI. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include demolition/removal and disposal of both organic waste (landscaped trees/shrubs) and structural demolition waste (buried pipes, concrete vaults, manholes, two trailers, and at-grade concrete slabs); excavation; grading; trenching; driving and drilling piles; construction of buildings and concrete structures, increased human activities, sudden or loud noise, and increased vehicle traffic (Covered Activities).

Incidental take of individuals of the Covered Species, California tiger salamander and Alameda whipsnake, in the form of mortality (“kill”) may occur as a result of Covered Activities such as ground- or vegetation-disturbing construction activities; crushing or entombment during excavation, grading, and fill activities (stockpiling and excess material disposal), crushing in burrows or entombment due equipment and demolition operations, crushing from vehicle strikes, and equipment operations.

Incidental take of golden eagles in the form of mortality (“kill”), may occur as a result of Covered Activities such as ground- or vegetation-disturbing construction activities. Activities such as loud or sudden noise, operation of cranes, drill rigs, aerial activities such as drones (localized, low-flight use restricted to the SVWTP Construction Area), and increase in human activities may cause abandonment of or damage to golden eagle eggs, sudden flushing may cause injury to nestlings or adults, or may cause nestlings to fall out of the nest or prematurely fledge.

Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of relocation, movement out of harm’s way, or transportation to a wildlife facility if an individual Covered Species is detected within an active work area or if golden eagle nest monitoring indicates a golden eagle has been injured or eggs or young have been abandoned as a result of Covered Activities. The areas where authorized take of the Covered Species is expected to occur include: the SVWTP, former tree nursery, San Antonio Pump Station, access roads, and immediate area around golden eagle nest site(s) (collectively, the Project Area).

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

<sup>7</sup> See Fish & G. Code § 3511, subdivision (b). Unlike species listed under CESA, the Legislature designated fully protected species through legislation.

The Project is expected to cause the permanent loss of 0.96 acres of habitat for the Covered Species, and temporary loss of 0.05 acres of habitat for the Covered Species. Approximately 9.59 acres of the Project area is considered dispersal and estivation habitat for both California tiger salamander and Alameda whipsnake. There is a slight chance it could be foraging habitat for golden eagle if rodents or small mammals are present, however the adjacent Treatment Plant is a 24-hour operation.

#### *California tiger salamander and Alameda whipsnake*

Impacts of the authorized taking also include adverse impacts to the California tiger salamander and Alameda whipsnake 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 capture and relocation, noise and vibrations from demolition and equipment operations and long-term effects due to Covered Species habitat degradation, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

#### *Golden eagle*

Covered Activities will be conducted within the U.S. Fish and Wildlife Service's (USFWS) recommended one mile no-disturbance buffer of at least one documented golden eagle nest site. Impacts from these activities could cause adverse impacts to golden eagle such as the loss of a breeding pair's nest attempt or nest failure, premature fledging and injury or death to a nestling by falling out of the nest, or the Project's incremental contribution to cumulative impacts to golden eagles. These impacts include: reduction in the local population through repeat losses of individuals and displacement from traditional nesting trees, stress resulting from noise and vibrations from Covered Activities, displacement from preferred habitat, increased vulnerability to predation if adults are disturbed from the nest leaving eggs or nestlings unattended for long periods of time, or a nestling prematurely fledges and falls out of the nest. Nest location may change year after year.

### **VII. Incidental Take Authorization of Covered Species:**

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

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## VIII. Conditions of Approval:

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Environmental Impact Report for the Project (SCH No.: 2007082014) certified on December 3, 2009 and Addendum1 certified on July 13, 2023 by San Francisco Planning Department as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the USFWS Short-Term Eagle Incidental Take Permit (USFWS ITP) (No. MBPER4694080) for the Project pursuant to the Bald and Golden Eagle Protection Act and the Formal Consultation on the Proposed Sunol Water Treatment Plant Ozonation Facility Project, Alameda County, California (Biological Opinion No. 2024-0077469-S7). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization overlap with the conditions of approval in this ITP, and the conditions in the federal authorization are less protective of the Covered Species, the more protective conditions of approval set forth in this ITP shall control.
4. **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.
5. **General Provisions:**
  - 5.1. 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.
  - 5.2. Designated Biologist(s) and Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form

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(Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.

- 5.3. Designated Biologist Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist in the performance of their duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW regarding this ITP, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 5.4. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA or section 3511 of the Fish and Game Code as applicable, including legal protection, recovery efforts, penalties for violations, and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.

- 5.5. Construction Monitoring Documentation. The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.
- 5.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 5.7. 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.
- 5.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 5.9. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route 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.
- 5.10. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 5.11. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour on the Project site 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.

- 5.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP.
- 5.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

## **6. Monitoring, Notification and Reporting Provisions:**

- 6.1. 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.
- 6.2. Notification of Non-Compliance.** The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.
- 6.3. Compliance Monitoring.** The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of weekly during periods of inactivity and after clearing,

grubbing, and grading are completed. The Designated Biologist shall conduct compliance inspections to:

- (1) minimize incidental take of the Covered Species;
- (2) prevent unlawful take of species;
- (3) check for compliance with all measures of this ITP;
- (4) check all exclusion zones; and
- (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

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

- 6.4. Weekly Compliance Monitoring.** During periods of inactivity or after clearing, grubbing, and grading are completed, compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any conditions of this ITP including the failure to maintain the temporary barrier described in Condition of Approval 7.3.
- 6.5. Monthly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.3 and 6.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud ([Marcia.Grefsrud@wildlife.ca.gov](mailto:Marcia.Grefsrud@wildlife.ca.gov)) and Headquarters CESA Program email is [CESA@wildlife.ca.gov](mailto:CESA@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 6.6. 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 6.5; (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.

- 6.7. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 14 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.
- 6.8. 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.
- 6.9. Notification of Take or Injury.** Permittee shall notify the Designated Biologist by the end of the business day 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) 482-2002 and the CDFW Representative at (707) 644-2812 by the end of the business day. If an individual Covered Species is found injured, Permittee shall immediately transport the injured individual to the closest wildlife rehabilitation center equipped with permits to receive and treat the species (see Condition of Approval 7.4). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number, and, if injured, the facility to which the individual was transported. If the take or injury is a result of Covered Activities then following initial notification, Permittee shall send CDFW a written report within two calendar days of the discovery. The report shall include the date and time of the finding or incident, GPS location of the Covered Species,

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photographs of the location and the Covered Species, explanation as to cause of take or injury, and any other pertinent information. For injured Covered Species individuals, the Designated Biologist or Designated Representative shall provide weekly updates on the status of the rehabilitation facility's treatment of the individual.

- 6.9.1.** If a California tiger salamander is found recently deceased, a ½- inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to:

CDFW Bay Delta Region  
Attention: Marcia Grefsrud  
2825 Cordelia Road, Suite 100  
Fairfield, CA 94534

The remaining carcasses shall be delivered to the following address within two calendar days of the discovery:

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

- 6.9.2.** If an Alameda whipsnake is found recently deceased, a 3 mm portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. The tail tip shall be sent to the following address:

U.S. Geological Survey  
Attention: Jonathan Richmond  
4165 Spruance Road, Suite 200  
San Diego, CA 92101

The remaining carcass shall be sent to Berkeley Natural History Museum at <https://mvz.berkeley.edu/deadanimal/> or California Academy of Sciences, at Herpetology, (415) 379-5292, or at [LScheinberg@calacademy.org](mailto:LScheinberg@calacademy.org).

- 6.9.3.** If a golden eagle carcass or injured adult, nestling or abandoned egg is found, Permittee shall immediately notify the following CDFW representatives:

Wildlife Diversity Program: Dan Applebee  
[Daniel.Applebee@wildlife.ca.gov](mailto:Daniel.Applebee@wildlife.ca.gov), (916) 516-3178

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Wildlife Health Laboratory, (916) 358-2790:

Krysta Rogers [Krysta.Rogers@wildlife.ca.gov](mailto:Krysta.Rogers@wildlife.ca.gov); (916) 531-7647 and

Heather Perry [Heather.Perry@wildlife.ca.gov](mailto:Heather.Perry@wildlife.ca.gov); (916) 317-0229

The Designated Biologist or Designated Representative shall collect the carcass and place it in a clean, sealed, plastic bag with a specimen label, and temporarily store it in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. The Designated Biologist or Designated Representative shall contact Krysta Rogers to coordinate carcass shipment or transfer.

The Designated Biologist or Designated Representative shall deliver any injured eagles to a rehabilitator licensed by CDFW (<https://wildlife.ca.gov/Conservation/Laboratories/Wildlife-Health/Rehab/Facilities>). For further information regarding facilities authorized to temporarily house injured eagles, contact the Department's Wildlife Rehabilitation Program Coordinator, Heather Perry.

- 6.10. Additional Impacts to Habitat.** No impacts to Covered Species habitat beyond the permanent loss of 0.96 acre of habitat for the Covered Species and temporary (less than one year) loss of 0.05 acre of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts.
- 6.11. 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 temporary impact; and (2) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (see Condition of Approval 6.13).
- 6.12. Temporary Impact Restoration Schedule.** Prior to initiating any temporary impacts, Permittee shall ensure that a Temporary Impact Restoration Schedule has been developed that ensures: (1) removal of gravel, recontouring and seeding of temporary impact areas shall occur prior to October 31 of each year where the impacts occur; and (2) all temporary impacts from prior years have met the October 31 recontouring and seeding criteria and have achieved vegetation success as described in the Vegetation Restoration Plan (See Condition of Approval 6.13).
- 6.13. Vegetation Restoration.** Permittee shall prepare a Vegetation Restoration Plan (Restoration Plan) to restore Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions. Permittee shall submit the Restoration Plan to CDFW for approval within at least 15 days prior to the start of restoration activities. The Restoration Plan shall identify plant species damaged or removed during Project activities. The Restoration Plan shall include the following restoration standards:

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

- 6.13.1.1.** Permittee shall pre-designate each restoration area for establishment of a specific native vegetation community, based on slope, aspect, hydrological conditions, and if applicable, adjacent native vegetation. The seed mix for each restoration site shall be tailored to achieve the species composition of the pre-designated vegetation community. The distribution of vegetation communities within the restoration area shall be roughly proportionate to any native vegetation communities impacted. Following restoration, the species composition of each restoration site shall closely match that of the associated reference site.
- 6.13.1.2.** Seed mixes shall include only locally native species at a ratio appropriate to the site, with an emphasis on native bunchgrasses and other grassland species. Local native wildflower seed may also be included in the mix. Seed may be collected from within the Project Area. Additional seed shall be sourced from Alameda and Santa Clara counties where feasible (i.e., original genetic material shall have been collected within this area) or from adjacent counties with similar ecotype; however, the seed may be purchased from a seed farm outside of this area. For seeding and mulching exposed slopes, the seed blend may include one or two sterile non-native perennial grass species.
- 6.13.1.3.** Permittee shall complete seeding prior to winter rains, but no later than November 15 of the year of the impact. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.
- 6.13.1.4.** No more than 15 percent (%) of the vegetation in each restoration site shall consist of species designated as high or moderate invasive plants in the California Invasive Plant Council's (Cal-IPC) California Invasive Plant Inventory Database (<http://www.cal-ipc.org/paf/>). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner.

**6.13.2. Monitoring and Maintenance.** Permittee is responsible for monitoring and maintaining the restored areas for a period of three years or until the Restoration Plan success criteria have been met, whichever is longer. After 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

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restoration has been successful as outlined in Condition of Approval 6.13.1, Permittee may submit the report at the end of Year 1 and annually thereafter.

**6.13.3.** If the survival and/or cover requirements are not meeting the performance standards outlined in Condition of Approval 6.13.1, 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 annual restoration reports (see Condition 6.4) to CDFW until the standards have been met. Replacement plantings shall be monitored with the same survival and growth requirements for three years after planting.

**6.14. Tracking Impacts.** Permittee shall track temporary and permanent impacts to Covered Species habitat and notify CDFW if impacts to such habitat are likely to be exceeded in the coming month. Permittee shall submit an appropriately revised Project construction schedule (see Condition 6.18) within seven days in order to ensure temporary impacts remain within the temporary impact criteria according to Condition of Approval 6.11. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.

**6.14.1.** If CDFW determines in writing that the temporary or permanent impacts to Covered Species habitat has been exceeded, Permittee shall cease all new construction activities until appropriate authorization has been provided if so directed in writing by CDFW.

#### *Invasive Species*

**6.15. 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 6.13). The Designated Biologist(s) qualified to do botanical surveys and approved by CDFW shall submit the sampling methodology to CDFW at least 30 days prior to conducting baseline surveys. The baseline survey shall include both a qualitative (windshield and pedestrian) and quantitative assessment of target species within the Project Area.

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

**6.16. Prevention of Spread of Invasive Species.** Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species,

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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/>.

- 6.17. Invasive Plant Species Control Plan.** Permittee shall prepare an Invasive Plant Species Control Plan (Invasive Plant Plan) to effectively control and monitor invasive plants, in order to meet the success criteria defined in Condition of Approval 6.13.1.4, within Covered Species habitat that will be temporarily disturbed and subsequently restored. The Invasive Plant Plan shall include the results of baseline surveys (see Condition of Approval 6.15). Permittee shall submit the Invasive Plant Plan to CDFW for approval within 30 days prior to the start of restoration activities. The Permittee 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*

- 6.18. Construction Schedule.** Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven days prior to the change being implemented.
- 6.19. 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 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.

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

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- 7.1. Time of Day Work Restriction.** Permittee shall restrict work activities to between sunrise and sunset, based on times established by the U.S. Naval Observatory Astronomical Applications Department except when required for critical path shut-down work and concrete pours which require cooler temperatures. This work will not occur on nights when it is raining. The Permittee may access staging areas up to 30 minutes prior to sunrise if escorted onto the Project Area by a Designated Biologist. Any variation in time of day restriction must be approved in writing by the CDFW Representative.
- 7.2. Work Period.** Permittee shall confine work within the stream/riparian corridor to the period July 1 to October 31. Revegetation work is not confined to this time period.
- 7.3. Temporary Covered Species Barrier.** Prior to commencing any other Covered Activities, Permittee shall install a temporary barrier to prevent the terrestrial Covered Species from dispersing into the Project Area (excluding the sections of the access road and burrow compaction areas but including the staging areas and work areas). The barrier shall be designed to allow the Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. The barrier shall remain in place until the Project is complete. The Designated Biologist (or other trained staff during periods when no Covered Activities occur) shall inspect the barrier daily, and before, during and after storm events. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Vegetation shall be managed on the opposite side of the work area at least three feet outward to prevent the possibility of Alameda whipsnake from using vegetation to climb over the fence. Permittee shall provide refuge opportunities, such as cover boards (3-foot x 3-foot plywood), along the barrier on both sides of it. Permittee shall submit to CDFW for approval, the location and design of the barrier and refuge opportunities no less than 30 days prior to the proposed start of Covered Activities. The Designated Biologist shall inspect refuge areas each morning during and after rain events. Animals found within the interior barrier shall be relocated outside the barrier no more than 300 feet from the Project boundary. California tiger salamanders found shall be relocated by the Designated Biologist per Condition of Approval 7.5 and 7.10.
- 7.4. Covered Species Injury.** If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 6.9. Notification shall include the name of the facility where the animal was taken.
- 7.4.1.** If an active golden eagle nest is disturbed or abandoned and determined to be caused by Covered Activities or activities related to the Project as determined by the Designated Biologist in consultation with CDFW, the Permittee shall

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transport the eggs/young or injured adult to a wildlife hospital/veterinarian for care, as described in the Golden Eagle Handling, Care, and Rehabilitation Plan as required in Condition of Approval 7.19.

- 7.5. Covered Species Relocation and Handling Plan.** The Designated Biologist(s) shall prepare a Covered Species Relocation and Handling Plan (Relocation Plan) for Alameda whipsnake and California tiger salamander (see Condition of Approval 7.20 for golden eagles). The Relocation Plan shall include, but not be limited to, an identification of the survey and hand excavation, capture, handling, and relocation methods; and identification of where the individuals will be relocated to and how they will be transported. Relocation areas shall be identified by the Designated Biologist based upon best suitable habitat available and time of year and approved by CDFW prior to the start of Covered Activities. The Relocation Plan shall be submitted to CDFW for approval at least 30 days prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.
- 7.6. Trench Escape and Inspection.** The Designated Biologists and trained construction foreman/manager, supervised by the Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning of each day for trapped animals. To prevent inadvertent entrapment of Covered Species, the Designated Biologist(s) shall oversee the covering of all trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that Covered Species are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. Each morning prior to beginning Covered Activities and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) and/or construction foreman/manager shall thoroughly inspect them for Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately if any worker discovers that Covered Species have become trapped. If at any time a trapped Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per Condition of Approval 7.5 and 7.10.
- 7.6.1.** If the open holes, sumps, trenches or excavations cannot be covered then the Permittee shall install a temporary barrier around any trenches, holes, sumps, or other excavations to prevent Covered Species from becoming trapped. Refuge opportunities, such as cover boards (3-foot x 3-foot plywood), shall be provided on the outside perimeter of the barrier.

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- 7.7. Inspection of Pipes and Culverts.** Permittee shall ensure all construction pipes, culverts, or similar structures that are stored at the Project site for one or more overnight periods shall be securely capped prior to storage or inspected by the Designated Biologist before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a Covered Species is discovered inside a pipe by the Designated Biologist or anyone else, the Covered Species shall be allowed to leave its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area and in accordance with the Conditions of Approval 7.5 and 7.10.
- 7.8. Vehicle and Equipment Inspection.** Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Permittee shall contact the Designated Biologist to determine if the Designated Biologist can safely move the Covered Species in Accordance with Conditions of Approval 7.5 and 7.10.
- 7.9. Erosion Control.** Permittee shall ensure all erosion and sediment control measures are installed prior to earth moving Covered Activities on any phase of the Project. 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. Permittee, Designated Representative, or other trained staff shall monitor erosion control measures before, during, and after each storm event and repair and/or replace ineffective measures immediately.

*California tiger salamander specific measures*

- 7.10. California Tiger Salamander Relocation.** The Designated Biologist shall relocate any California tiger salamander found within the Project Area to be impacted to an active rodent burrow system located no more than 300 feet outside of the Project Area unless otherwise approved by CDFW in writing. The Designated Biologist shall document both the capture and relocation areas by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation shall be provided to the CDFW within 24 hours of California tiger salamander relocation.
- 7.11. Augering and Excavation.** The Designated Biologist shall survey all augering and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.
- 7.12. Pre-Activity Surveys.** The Designated Biologist shall inspect all ruts and holes near root structures, foundations, abutments, etc. for California tiger salamander immediately prior to and during excavation or removal. A Designated biologist shall survey the open areas adjacent to ongoing construction. Multiple biologists may be

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necessary to survey the area appropriately. If a California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location (e.g. mouth of ground-squirrel burrow outside of the temporary barrier) per Condition of Approval 7.5 and 7.10 and monitor it until it is determined that it is not imperiled by predators or other dangers.

- 7.13. 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 hybrid is found or suspected within the Project Area within 24 hours by calling CDFW's Regional Representative. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Covered Species Handling and Injury measures outlined in this ITP (see Condition of Approval 7.4 and 7.5.)

*Alameda whipsnake specific measures*

- 7.14. Daily Surveys.** The Designated Biologist shall conduct walking, pre-construction surveys for Alameda whipsnakes prior to the initiation of Covered Activities each day including excavated/dewatered areas. In addition, the Designated Biologist shall walk in front of the earthmoving equipment while Covered Activities are being conducted, if it can be done safely. If an Alameda whipsnake is discovered, the Designated Biologist shall have the authority to halt construction until the Alameda whipsnake leaves the area of its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project.
- 7.15. Access Roads.** The Designated Biologist shall inspect the entire access route for Covered Species each day when Covered Activities are occurring between March 15 and October 31 of each year. Inspections shall occur in the morning prior to Project related vehicle access (unless Project related vehicle traffic occurs prior to sunrise) and in the afternoon prior to Project related vehicles exiting the Project Area. If a Designated Biologist finds a dead Alameda whipsnake on the access route, Permittee shall consult with CDFW to determine appropriate contingency measures, such as traffic control or vehicle escorts, and shall implement the measures determined appropriate by CDFW.
- 7.16. Vegetation Marked for Protection.** Permittee shall ensure vegetation is removed prior to grading. Prior to clearing and grubbing operations, the Designated Biologist shall clearly mark vegetation within the Project Area that shall be avoided. Vegetation outside the Project Area shall not be removed.
- 7.17. Vegetation Removal Methods.** Where possible, Permittee shall use hand tools (e.g., trimmer, chain saw, etc.) to trim or remove vegetation. All vegetation removal shall be monitored by the Designated Biologist to minimize impacts to the Covered Species.

## *Golden eagle specific measures*

### **7.18. Golden Eagle Nest Monitoring and Adaptive Management Plan.**

**7.18.1. Nest Monitoring.** The Designated Biologist or Biological Monitor shall monitor the behavior of golden eagles within disturbance distance of the Covered Activities. Even within species, disturbance distances can vary according to time of year or geographical location. The Designated Biologist shall observe from greater than 1,312 feet (400 meters) from the nest where feasible or a location where the Designated Biologist determines there is no impact to golden eagle adults or offspring. If feasible and allowed under the existing USFWS ITP, the Permittee shall install a remote camera during the non-breeding season to monitor the current nest location. However, due to the nest location changing from year to year, regular nest monitoring may not be feasible. The Designated Biologist or Biological Monitor shall have authority to order the cessation of all Project activities within disturbance distance of a golden eagle nest if the birds exhibit abnormal nesting behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Abnormal nesting behaviors which may cause reproductive harm include but are not limited to defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, interrupted feeding patterns, and flying away from the nest. Covered Activities within line of sight of the nest shall not resume until the Designated Biologist has consulted with CDFW and USFWS and there is concurrence that the bird's behavior has normalized, or the young have left the nest. Results of monitoring shall be included in the Monthly and Annual Reports (Conditions of Approval 6.5 and 6.6).

**7.18.2. Adaptive Management.** Adaptive Management shall include mortality reduction actions for the duration of this ITP unless updated by CDFW to reflect best available science, in which case CDFW will contact the Permittee to discuss needed updates. As provided for in Fish and Game Code section 2081.15, subdivisions (a)(3) and (d), this ITP's conditions of approval may be amended when necessary to minimize and fully mitigate the impacts of the authorized take of golden eagle. The Designated Biologist may also propose updates to the CDFW-approved Adaptive Management Plan as a result of new information gathered through compliance monitoring.

**7.19. Golden Eagle Handling, Care, and Rehabilitation Plan.** The Designated Biologist(s) shall prepare a Golden Eagle Handling, Care, and Rehabilitation Plan (Care Plan). The Care Plan shall include, but not be limited to, steps to capture and handle an injured golden eagle or abandoned eggs or nestlings, the identification of a CDFW-approved wildlife rehabilitation center or veterinary facility, how the golden eagle will be transported, and funding for the rehabilitation, recovery, and hacking (controlled release) of the golden eagle nestlings. The Care Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Care Plan is approved in writing by

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CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species. Once the Care Plan is approved in writing by CDFW, it shall be used as applicable for the duration of this ITP unless updated by CDFW to reflect best available science, in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes to the CDFW-approved Care Plan shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any proposed Care Plan modifications.

**7.20. Loud Intermittent Activity.** The Permittee shall avoid loud intermittent activities from when eggs are laid until chicks are greater than three weeks old. Permittee shall avoid conducting loud intermittent activities between after egg laying and fledging until nest is no longer in use when there is inclement weather, such as high winds, precipitation, or extreme temperatures (<45 or >90 degrees Fahrenheit). Permittee shall use all available and practicable methods and technology to reduce the noise generated by the Covered Activities. These may include but are not limited to vibratory pile driving or constructed sound barriers.

**7.21. Rodenticides.** Permittee shall avoid outdoor use of rodenticides. This ITP does not authorize the killing or injury of eagles resulting from rodenticide exposure.

**8. 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, including Fish and Game Code section 2081.15, to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall either purchase 2.9 acres of Covered Species credits (annual grassland and foraging habitat for Alameda whipsnake, California tiger salamander, and golden eagle) from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) within the East Alameda County Conservation Strategy (EACCS) CTS South mitigation area (Chapter 3, Figure 3-10, dated October 2010) OR shall provide for both the permanent protection and management of 2.9 acres of Habitat Management (HM) lands for all the Covered Species and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below.

Permittee shall provide compensatory habitat consistent with the conservation priorities and mitigation ratios described in the EACCS (Chapter 3, dated October 2010) for the Covered Species as confirmed by CDFW. Therefore, the amount of HM lands required may be adjusted by CDFW to reflect any corrections made to mitigation ratios based on EACCS habitat scoring of the mitigation site.

If Permittee intends to purchase Covered Species credits, additional credits may be required if the CDFW-approved conservation bank site is outside the EACCS CTS South

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

Although the permanent protection and perpetual management of compensatory habitat along with compliance with this ITP's conditions of approval would be sufficient to fully mitigate Project-related impacts of the taking on golden eagle, CDFW determined that additional measures are required to satisfy the conditions in subdivisions (a)(1) and (a)(2) of Fish and Game Code section 2081.15 related to the conservation standard of subdivision (d) of Fish and Game Code section 2805 with respect to golden eagle. To that end, CDFW determined that purchasing power pole retrofit credits would satisfy the aforementioned conditions. Therefore, Permittee shall retrofit 10 power poles in Alameda, Contra Costa, or Santa Clara counties with a minimum of 5 power pole retrofits within 5 miles of the golden eagle nest site.

Purchase of Covered Species credits OR permanent protection and funding for perpetual management of HM lands, as well as the purchase of power pole retrofit credits 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 9 below for all uncompleted obligations. The Permittee shall also restore on-site 0.05 acre of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.6 below.

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

- 8.1.1.** Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$20,000/acre for 2.9 acres for Covered Species: **\$58,000.00**. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;
- 8.1.2.** All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 8.3.1 and 8.3.2 below: **\$10,000.00**;
- 8.1.3.** Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.3.5 below, estimated at **\$15,000.00**; including.
- 8.1.4.** Interim management period funding as described in Condition of Approval 8.3.6 below, estimated at **\$20,000.00**;

- 8.1.5.** Long-term management funding as described in Condition of Approval 8.4 below, estimated at \$5,000.00/acre for 2.9 acres: **\$14,500.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
- 8.1.6.** Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.5, estimated at **\$6,000.00**.
- 8.1.7.** Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.6, calculated at \$4,500.00/acre for 0.05 acres: **\$225.00**.
- 8.1.8.** All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work **\$75,000.00**.
- 8.1.9.** Cost associated with Power Pole Retrofit Credits is estimated at \$7,500/pole for 10 poles: **\$75,000.00**.
- 8.2.** Covered Species Credits. If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall purchase 2.9 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below. Prior to purchasing Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.
- 8.3.** Habitat Management Lands Acquisition and Protection. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall:
  - 8.3.1.** Fee Title. Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property

provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.

- 8.3.2. Conservation Easement.** If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the “doctrine of merger” could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.
- 8.3.3. HM Lands Approval.** Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project’s impacts on Covered Species;
- 8.3.4. HM Lands Documentation.** Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 8.3.5. Land Manager.** Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.
- 8.3.6. Start-up Activities.** Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM

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lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (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;

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

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

- 8.4. Endowment Fund.** If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment), or an alternative financial agreement approved by CDFW. The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 8.4.6. 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.

- 8.4.1. 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 30 days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the 30-day period, the proposal shall be deemed consistent with Section 2081(b)(3).

- 8.4.2. Calculate the Endowment Funds Deposit.** After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.

- 8.4.2.1. Capitalization Rate and Fees.** Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.

**8.4.2.2. Endowment Buffers/Assumptions.** Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

**8.4.2.2.1. 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.

**8.4.2.2.2. Three Years Delayed Spending.** The endowment shall be established assuming spending will not occur for the first three years after full funding.

**8.4.2.2.3. 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.

**8.4.3. 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.

**8.4.4. Management of the Endowment.** The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

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

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

**8.6. Habitat Restoration.** Permittee shall restore on-site the 0.05 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 30 days of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 0.05 acres of temporary construction disturbance on-site and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The plan shall also indicate the best time of year for seeding to occur. Plantings undertaken between April 15 and October 31 shall include regular watering to ensure adequate growth.

**9. 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:

**9.1. Security Amount.** The Security shall be in the amount of **\$273,725.00** or in the amount identified in 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.

**9.2. 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.

**9.3. 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.

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

**9.5. Security Transmittal.** Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.

**9.6. 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.

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**9.7. 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:

- Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits;
- Timely submission of all required reports; and
- Documentation of purchase of power pole retrofit credits

OR

- Written documentation of the acquisition of the HM lands;
- Documentation of purchase of power pole retrofit credits
- 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.

## **IX. Amendment:**

With respect to the Covered Species listed under CESA, this ITP may be amended as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable law. With respect to the fully protected Covered Species, this ITP may be amended as provided by Fish and Game Code section 2081.15, subdivisions (a)(3) and (d), and other applicable laws. This ITP may also 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.

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

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, 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.

## **XI. 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.

## **XII. Compliance with Other Laws:**

This ITP sets forth CDFW's requirements for the Permittee to implement the Project pursuant to CESA. This ITP does not necessarily create an entitlement to proceed with the Project. Permittee is responsible for complying with all other applicable federal, state, and local law.

## **XIII. Notices:**

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2024-019-03) in a cover letter and on any other associated documents.

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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)

and a copy (digital copy preferred) 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  
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)

#### **XIV. Compliance with the California Environmental Quality Act:**

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, San Francisco Planning Commission. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Sunol Valley Water Treatment Plant Expansion and Treated Water Reservoir Final Environmental Impact Report, (SCH No.: 2007082014) dated June 3, 2009 and that the San Francisco Planning Department certified for Sunol Valley Water Treatment Plant Expansion and Treated Water Reservoir on December 3, 2009 and the Addendum 1 for the Sunol Valley Water Treatment Plant Expansion and Treated Water Reservoir (Sunol Valley Water Treatment Plant Ozonation Facility and Other Site Improvements Project), dated July 13, 2023. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's EIR and

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Addendum 1 for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

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

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. (Fish & G. Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds, (a)-(b), 783.5, subd. (c)(2); and Fish & G. Code § 2081.15, subds (a) – (d)).

CDFW finds based on substantial evidence in the ITP application, Sunol Valley Water Treatment Plant Expansion and Treated Water Reservoir (Sunol Valley Water Treatment Plant Ozonation Facility and Other Site Improvements Project) EIR and Addendum 1, the results of consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; (4) Monthly Compliance Reports, and (5) monitoring and adaptive management. 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 2.9 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;

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- (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) 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;
- (7) 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;
- (8) As stated in findings (1) – (7) above, the requirements of subdivisions (b) and (c) of Section 2081 are satisfied as to golden eagle;
- (9) As stated in finding (2) above, the impacts of the taking on golden eagle will be minimized and fully mitigated through the implementation of measures required by this ITP such as the protection and management of compensatory habitat. Nevertheless, CDFW determined that additional measures are required to satisfy the conservation standard of subdivision (d) of Fish and Game Code section 2805 with respect to golden eagle. To that end, CDFW determined that the purchase of 10 power pole retrofit credits not only ensures that the impacts of the taking on golden eagle caused by the Project will be fully mitigated, but in combination with the other measures required by this ITP, satisfies the conservation standard of subdivision (d) of Fish and Game Code section 2805;
- (10) This ITP provides for the development and implementation of a monitoring program and adaptive management plan for monitoring the effectiveness of, and amending, as necessary, the measures to minimize and fully mitigate the impacts of the authorized take of golden eagle. The take monitoring programs and adaptive management plans are in the forms of the Golden Eagle Nest Monitoring and Adaptive Management Plan; and the Golden Eagle Handling, Care, and Rehabilitation Plan, as required by the measures in this ITP;
- (11) The Project that is the subject of this ITP's authorization to take golden eagle incidentally in carrying out Covered Activities is a maintenance, repair, and improvement project to critical regional or local water agency infrastructure.

**XVI. Attachments:**

|              |                                             |
|--------------|---------------------------------------------|
| FIGURE 1     | Map of Project                              |
| ATTACHMENT 1 | Mitigation Monitoring and Reporting Program |
| ATTACHMENT 2 | Biologist Resume Form                       |
| ATTACHMENT 3 | Letter of Credit Form                       |
| ATTACHMENT 4 | Mitigation Payment Transmittal Form         |

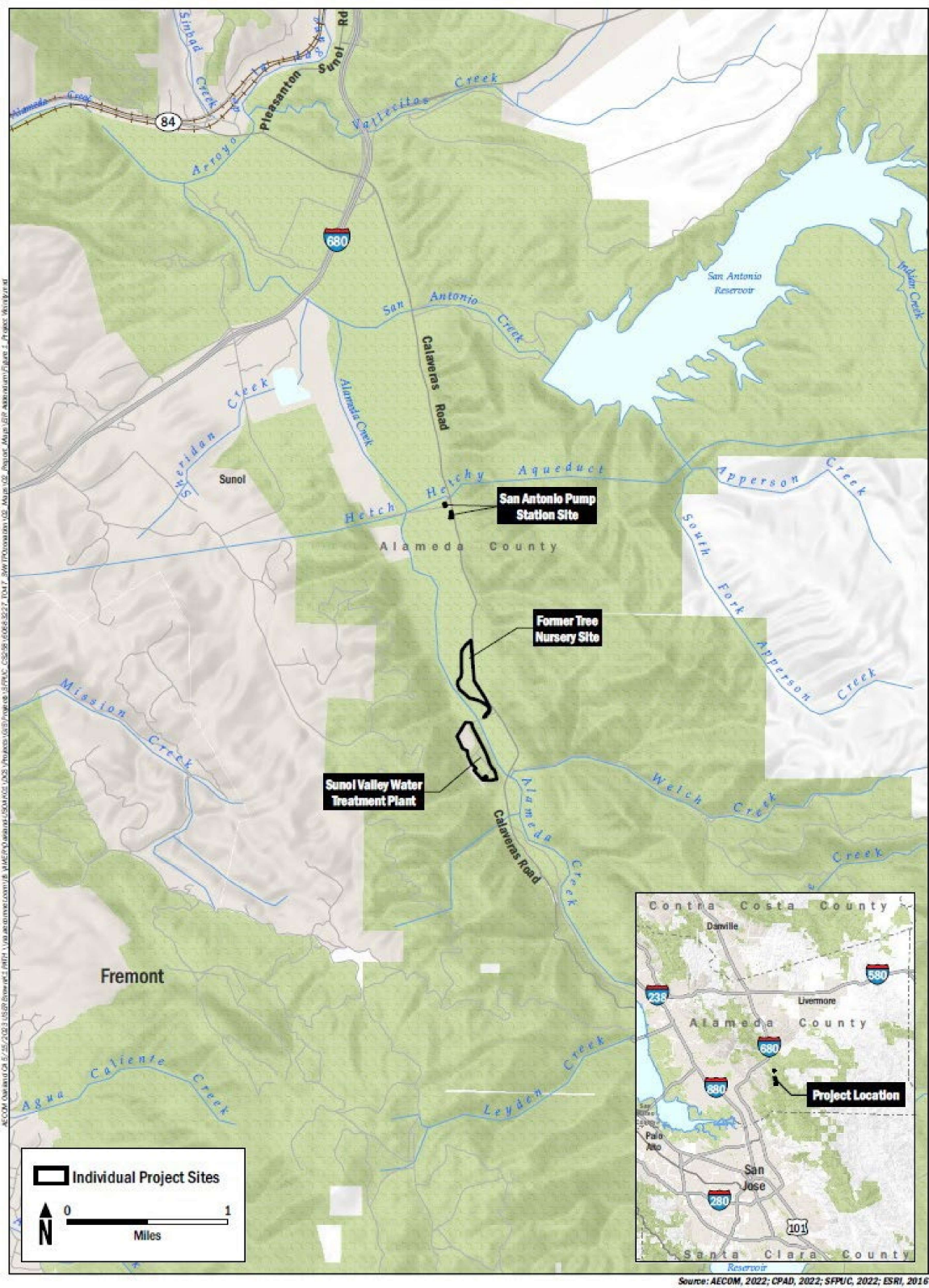
**ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

**ON** 10/15/2025 \_\_\_\_\_.

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

Figure 1: Project Location



**Attachment 1**

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)  
CALIFORNIA ENDANGERED SPECIES ACT  
INCIDENTAL TAKE PERMIT NO. 2081-2024-019-03**

**PERMITTEE:** San Francisco Public Utilities Commission

**PROJECT:** Sunol Valley Water Treatment Plant Ozonation Project

**PURPOSE OF THE MMRP**

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

**OBLIGATIONS OF PERMITTEE**

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

**VERIFICATION OF COMPLIANCE, EFFECTIVENESS**

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

**TABLE OF MITIGATION MEASURES**

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

|                                             | Mitigation Measure                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Source              | Implementation Schedule                                                              | Responsible Party | Status / Date / Initials |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|--------------------------------------------------------------------------------------|-------------------|--------------------------|
| <b>BEFORE DISTURBING SOIL OR VEGETATION</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                     |                                                                                      |                   |                          |
| 1                                           | Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | ITP Condition # 5.1 | Before commencing ground- or vegetation-disturbing activities/<br><br>Entire Project | Permittee         |                          |
| 2                                           | Designated Biologist(s) and Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.                                                                                                                                            | ITP Condition # 5.2 | Before commencing ground- or vegetation-disturbing activities                        | Permittee         |                          |
| 3                                           | Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist in the performance of their duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW regarding this ITP, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP. | ITP Condition # 5.3 | Before commencing ground- or vegetation-disturbing activities/<br>Entire Project     | Permittee         |                          |

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| 4 | Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA or section 3511 of the Fish and Game Code as applicable, including legal protection, recovery efforts, penalties for violations, and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area. | ITP Condition # 5.4  | Before commencing ground- or vegetation-disturbing activities/ Entire Project | Permittee |  |
| 5 | Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | ITP Condition # 5.6  | Before commencing ground- or vegetation-disturbing activities/ Entire Project | Permittee |  |
| 6 | Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | ITP Condition # 5.7  | Before commencing ground- or vegetation-disturbing activities/ Entire Project | Permittee |  |
| 7 | Delineation of Property Boundaries. Before starting Covered Activities along each part of the route 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 # 5.9  | Before commencing ground- or vegetation-disturbing activities/ Entire Project | Permittee |  |
| 8 | Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | ITP Condition # 5.10 | Before commencing ground- or vegetation-disturbing activities/ Entire Project | Permittee |  |

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| 9  | <p>Invasive Plant Species Control- Baseline. Permittee shall ensure that pre-Project baseline conditions are established for documenting type, location and general abundance of invasive plant species within the Project Area. These baseline conditions will be used for post-construction monitoring of restored areas (see Condition 6.13). The Designated Biologist(s) qualified to do botanical surveys and approved by CDFW shall submit the sampling methodology to CDFW at least 30 days prior to conducting baseline surveys. The baseline survey shall include both a qualitative (windshield and pedestrian) and quantitative assessment of target species within the Project Area.</p> <p>Permittee shall ensure that baseline sampling at control transects is conducted prior to the start of Project construction activities. Sampling shall be conducted during the appropriate season for detecting invasive plant species and shall be based on an appropriate number of monitoring plots (treatment and control sets) approved by CDFW. The Designated Biologist(s) shall conduct sampling for target invasive plant species ranked by the Cal-IPC's Inventory as High or Moderate (<a href="http://www.cal-ipc.org/paf/">http://www.cal-ipc.org/paf/</a>).</p>                                                           | ITP Condition # 6.15 | Before commencing ground- or vegetation-disturbing activities | Permittee |  |
| 10 | <p>Invasive Plant Species Control Plan. Permittee shall prepare an Invasive Plant Species Control Plan (Invasive Plant Plan) to effectively control and monitor invasive plants, in order to meet the success criteria defined in Condition of Approval 6.13.1.4, within Covered Species habitat that will be temporarily disturbed and subsequently restored. The Invasive Plant Plan shall include the results of baseline surveys (see Condition of Approval 6.15). Permittee shall submit the Invasive Plant Plan to CDFW for approval within 30 days prior to the start of restoration activities. The Permittee shall oversee the management of invasives within the Project Area and may use control methods such as hand removal, mechanical removal and/or focused herbicide application within seeding and planting areas following vegetation restoration. The Designated Biologist shall ensure that invasive plant removal does not result in damage to adjacent Covered Species habitat or to root systems of installed plants. Herbicides may be used if hand or mechanical removal of invasives is unsuccessful or infeasible. Herbicides shall not be used within or near aquatic habitat and shall only be applied by an applicator holding a valid license issued by the California Department of Pesticide Regulation.</p> | ITP Condition # 6.17 | Before commencing ground- or vegetation-disturbing activities | Permittee |  |
| 11 | <p>Construction Schedule. Permittee shall submit a final construction schedule to CDFW within 15 calendar days prior to the start of Project construction activities. During the Project construction period, Permittee shall notify CDFW of any major changes in the construction schedule at least seven days prior to the change being implemented.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | ITP Condition # 6.18 | Before commencing ground- or vegetation-disturbing activities | Permittee |  |
| 12 | <p>Emergency Response Plan. Before the onset of work, Permittee shall prepare an Emergency Response Plan describing actions that will be taken in case of a human-generated disaster, such as a spill or release of hazardous materials. An emergency phone tree, including contact information for all appropriate disaster management agencies and natural resources agencies, shall be included in the plan and should be posted on-site in a visible location. The Emergency Response Plan shall specify containment procedures for hazardous substances, with emphasis on avoidance of the aquatic features at the Project site.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | ITP Condition # 6.19 | Before commencing ground- or vegetation-disturbing activities | Permittee |  |
| 13 | <p>Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | ITP Condition # 6.1  | Before commencing ground- or vegetation-disturbing activities | Permittee |  |

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| 14 | Covered Species Relocation and Handling Plan. The Designated Biologist(s) shall prepare a Covered Species Relocation and Handling Plan (Relocation Plan) for Alameda whipsnake and California tiger salamander (see Condition of Approval 7.20 for golden eagles). The Relocation Plan shall include, but not be limited to, an identification of the survey and hand excavation, capture, handling, and relocation methods; and identification of where the individuals will be relocated to and how they will be transported. Relocation areas shall be identified by the Designated Biologist based upon best suitable habitat available and time of year and approved by CDFW prior to the start of Covered Activities. The Relocation Plan shall be submitted to CDFW for approval at least 30 days prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Relocation Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | ITP<br>Condition<br># 7.5  | Before commencing<br>ground- or vegetation-<br>disturbing activities                    | Permittee |  |
| 15 | Golden Eagle Handling, Care, and Rehabilitation Plan. The Designated Biologist(s) shall prepare a Golden Eagle Handling, Care, and Rehabilitation Plan (Care Plan). The Care Plan shall include, but not be limited to, steps to capture and handle an injured golden eagle or abandoned eggs or nestlings, the identification of a CDFW-approved wildlife rehabilitation center or veterinary facility, how the golden eagle will be transported, and funding for the rehabilitation, recovery, and hacking (controlled release) of the golden eagle nestlings. The Care Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Care Plan is approved in writing by CDFW. Only the approved Designated Biologist(s) are authorized to capture and handle the Covered Species. Once the Care Plan is approved in writing by CDFW, it shall be used as applicable for the duration of this ITP unless updated by CDFW to reflect best available science, in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes to the CDFW-approved Care Plan shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any proposed Care Plan modifications.                                                                                                                                                                                                                                                                                                                                                                                                 | ITP<br>Condition<br># 7.19 | Before commencing<br>ground- or vegetation-<br>disturbing activities                    | Permittee |  |
| 16 | Temporary Covered Species Barrier. Prior to commencing any other Covered Activities, Permittee shall install a temporary barrier to prevent the terrestrial Covered Species from dispersing into the Project Area (excluding the sections of the access road and burrow compaction areas but including the staging areas and work areas). The barrier shall be designed to allow the Covered Species to leave the Project Area using a one-way funnel or other method approved by CDFW. The barrier shall remain in place until the Project is complete. The Designated Biologist (or other trained staff during periods when no Covered Activities occur) shall inspect the barrier daily, and before, during and after storm events. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Vegetation shall be managed on the opposite side of the work area at least three feet outward to prevent the possibility of Alameda whipsnake from using vegetation to climb over the fence. Permittee shall provide refuge opportunities, such as cover boards (3-foot x 3-foot plywood), along the barrier on both sides of it. Permittee shall submit to CDFW for approval, the location and design of the barrier and refuge opportunities no less than 30 days prior to the proposed start of Covered Activities. The Designated Biologist shall inspect refuge areas each morning during and after rain events. Animals found within the interior barrier shall be relocated outside the barrier no more than 300 feet from the Project boundary. California tiger salamanders found shall be relocated by the Designated Biologist per Condition of Approval 7.5 and 7.10. | ITP<br>Condition<br># 7.3  | Before commencing<br>ground- or vegetation-<br>disturbing activities/<br>Entire Project | Permittee |  |

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| 17 | <p>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, including Fish and Game Code section 2081.15, to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.</p> <p>To meet this requirement, the Permittee shall either purchase 2.9 acres of Covered Species credits (annual grassland and foraging habitat for Alameda whipsnake, California tiger salamander, and golden eagle) from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) within the East Alameda County Conservation Strategy (EACCS) CTS South mitigation area (Chapter 3, Figure 3-10, dated October 2010) OR shall provide for both the permanent protection and management of 2.9 acres of Habitat Management (HM) lands for all the Covered Species and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below.</p> <p>Permittee shall provide compensatory habitat consistent with the conservation priorities and mitigation ratios described in the EACCS (Chapter 3, dated October 2010) for the Covered Species as confirmed by CDFW. Therefore, the amount of HM lands required may be adjusted by CDFW to reflect any corrections made to mitigation ratios based on EACCS habitat scoring of the mitigation site.</p> <p>If Permittee intends to purchase Covered Species credits, additional credits may be required if the CDFW-approved conservation bank site is outside the EACCS CTS South mitigation area described above. Additional credits may also be required if the Project is not within the Service Area of the CDFW-approved conservation bank. Permittee shall provide CDFW with a copy of the credit purchase agreement for the required credits prior to commencing Covered Activities.</p> <p>Although the permanent protection and perpetual management of compensatory habitat along with compliance with this ITP's conditions of approval would be sufficient to fully mitigate Project-related impacts of the taking on golden eagle, CDFW determined that additional measures are required to satisfy the conditions in subdivisions (a)(1) and (a)(2) of Fish and Game Code section 2081.15 related to the conservation standard of subdivision (d) of Fish and Game Code section 2805 with respect to golden eagle. To that end, CDFW determined that purchasing power pole retrofit credits would satisfy the aforementioned conditions. Therefore, Permittee shall retrofit 10 power poles in Alameda, Contra Costa, or Santa Clara counties with a minimum of 5 power pole retrofits within 5 miles of the golden eagle nest site.</p> <p>Purchase of Covered Species credits OR permanent protection and funding for perpetual management of HM lands, as well as the purchase of power pole retrofit credits 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 9 below for all uncompleted obligations. The Permittee shall also restore on-site 0.05 acre of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.6 below.</p> | ITP<br>Condition<br># 8 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
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| 18 | <p>Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:</p> <p>Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$20,000/acre for 2.9 acres for Covered Species: \$58,000.00. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;</p> <p>All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 8.3.1 and 8.3.2 below: \$10,000.00;</p> <p>Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.3.5 below, estimated at \$15,000.00; including.</p> <p>Interim management period funding as described in Condition of Approval 8.3.6 below, estimated at \$20,000.00;</p> <p>Long-term management funding as described in Condition of Approval 8.4 below, estimated at \$5,000.00/acre for 2.9 acres: \$14,500.00. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.</p> <p>Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.5, estimated at \$6,000.00.</p> <p>Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.6, calculated at \$4,500.00/acre for 0.05 acres: \$225.00.</p> <p>All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work \$75,000.00.</p> <p>Cost associated with Power Pole Retrofit Credits is estimated at \$7,500/pole for 10 poles: \$75,000.00.</p> | ITP<br>Condition<br># 8.1 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
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| 19 | Covered Species Credits. If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall purchase 2.9 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below. Prior to purchasing Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.                                                                                                                                                                                                                                                                                                                                                   | ITP<br>Condition<br># 8.2   | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
| 20 | Habitat Management Lands Acquisition and Protection. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall:<br><br>Fee Title. Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.                                                                                                                                                                                                                                                                                                                                                                                                                                                        | ITP<br>Condition<br># 8.3   | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
| 21 | Conservation Easement. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement. | ITP<br>Condition<br># 8.3.2 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
| 22 | HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | ITP<br>Condition<br># 8.3.3 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
| 23 | HM Lands Documentation. Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | ITP<br>Condition<br># 8.3.4 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |

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| 24 | Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.                                                                                                                                                                                                                                                                                                                                                                                                                                 | ITP<br>Condition<br># 8.3.5 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
| 25 | 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 (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<br>Condition<br># 8.3.6 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
| 26 | Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management.<br><br>Permittee shall either (1) provide Security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager. | ITP<br>Condition<br># 8.3.7 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |

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| 27 | <p>Endowment Fund. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment), or an alternative financial agreement approved by CDFW. The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 8.4.6. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p> | ITP Condition # 8.4    | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
| 28 | <p>Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.</p> <p>Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).</p> <p>Within 30 days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the 30-day period, the proposal shall be deemed consistent with Section 2081(b)(3).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | ITP Conditions # 8.4.1 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |

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| 29 | <p>Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.</p> <p>Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.</p> <p>Endowment Buffers/Assumptions. Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:</p> <p>10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</p> <p>Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>Non-Annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.</p> | ITP Conditions # 8.4.2 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
| 30 | <p>Transfer Long-Term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | ITP Conditions # 8.4.3 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |

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| 31 | <p>Management of the Endowment. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.</p> <p>Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.</p> | ITP Conditions # 8.4.4 | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
| 32 | Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | ITP Conditions # 8.5   | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |
| 33 | Habitat Restoration. Permittee shall restore on-site the 0.05 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 30 days of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 0.05 acres of temporary construction disturbance on-site and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The plan shall also indicate the best time of year for seeding to occur. Plantings undertaken between April 15 and October 31 shall include regular watering to ensure adequate growth.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | ITP Conditions # 8.6   | Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided) | Permittee |  |

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| 34                         | <p>Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>Security Amount. The Security shall be in the amount of \$273,725.00 or in the amount identified in 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.</p> <p>Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.</p> <p>Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>Security Transmittal. Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.</p> <p>Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.</p> | ITP Condition # 9   | 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> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                     |                                                                                                                                    |           |  |
| 35                         | Construction Monitoring Documentation. The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ITP Condition # 5.5 | Entire Project                                                                                                                     | Permittee |  |
| 36                         | Notification of Non-Compliance. The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | ITP Condition # 6.2 | Entire Project                                                                                                                     | Permittee |  |

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| 37 | <p>Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of weekly during periods of inactivity and after clearing, grubbing, and grading are completed. The Designated Biologist shall conduct compliance inspections to:</p> <ul style="list-style-type: none"> <li>(1) minimize incidental take of the Covered Species;</li> <li>(2) prevent unlawful take of species;</li> <li>(3) check for compliance with all measures of this ITP;</li> <li>(4) check all exclusion zones; and</li> <li>(5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.</li> </ul> <p>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.</p>              | ITP Condition # 6.3 | Entire Project | Permittee |  |
| 38 | <p>Weekly Compliance Monitoring. During periods of inactivity or after clearing, grubbing, and grading are completed, compliance inspections by the Designated Biologist may be reduced to a minimum of one day per week only after Permittee obtains written approval from CDFW. Daily compliance inspections shall resume if the Designated Biologist or CDFW finds the Permittee is out of compliance with any conditions of this ITP including the failure to maintain the temporary barrier described in Condition of Approval 7.3.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | ITP Condition # 6.4 | Entire Project | Permittee |  |
| 39 | <p>Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 6.3 and 6.4 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Marcia Grefsrud (Marcia.Grefsrud@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.</p> | ITP Condition # 6.5 | Entire Project | Permittee |  |

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| 40 | 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 6.5; (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. | ITP Condition # 6.6  | Entire Project | Permittee |  |
| 41 | CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 14 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 # 6.7  | Entire Project | Permittee |  |
| 42 | Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: <a href="http://www.cal-ipc.org/ip/prevention/index.php">http://www.cal-ipc.org/ip/prevention/index.php</a> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <a href="http://www.protectyourwaters.net/">http://www.protectyourwaters.net/</a> .                                                                                                                                                                                                                                                                                                                                                                                                                                            | ITP Condition # 6.16 | Entire Project | Permittee |  |
| 43 | Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | ITP Condition # 5.8  | Entire Project | Permittee |  |
| 44 | Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour on the Project site to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.                                                                                                                                                                                                                                                                                 | ITP Condition # 5.11 | Entire Project | Permittee |  |
| 45 | Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | ITP Condition # 5.12 | Entire Project | Permittee |  |

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| 46 | 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | ITP Condition # 5.13  | Entire Project | Permittee |  |
| 47 | 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | ITP Condition # 5.14  | Entire Project | Permittee |  |
| 48 | Notification of Take or Injury. Permittee shall notify the Designated Biologist by the end of the business day 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) 482-2002 and the CDFW Representative at (707) 644-2812 by the end of the business day. If an individual Covered Species is found injured, Permittee shall immediately transport the injured individual to the closest wildlife rehabilitation center equipped with permits to receive and treat the species (see Condition of Approval 7.4). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number, and, if injured, the facility to which the individual was transported. If the take or injury is a result of Covered Activities then following initial notification, Permittee shall send CDFW a written report within two calendar days of the discovery. The report shall include the date and time of the finding or incident, GPS location of the Covered Species, photographs of the location and the Covered Species, explanation as to cause of take or injury, and any other pertinent information. For injured Covered Species individuals, the Designated Biologist or Designated Representative shall provide weekly updates on the status of the rehabilitation facility's treatment of the individual. | ITP Condition # 6.9   | Entire Project | Permittee |  |
| 49 | <p>If a California tiger salamander is found recently deceased, a ½- inch portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Tail specimens shall be delivered to: CDFW Bay Delta Region, Attention: Marcia Grefsrud, 2825 Cordelia Road, Suite 100, Fairfield, CA 94534</p> <p>The remaining carcasses shall be delivered to the following address within two calendar days of the discovery: CDFW Wildlife Investigations Laboratory, Attention: Deana Clifford, 1701 Nimbus Road, Suite D, Rancho Cordova, CA 95670</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ITP Condition # 6.9.1 | Entire Project | Permittee |  |

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| 50 | <p>If an Alameda whipsnake is found recently deceased, a 3 mm portion of the tail tip shall be removed and placed in a labeled tissue tube with 95% ethanol. The remaining carcass, if salvageable, shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. The tail tip shall be sent to the following address: U.S. Geological Survey, Attention: Jonathan Richmond, 4165 Spruance Road, Suite 200, San Diego, CA 92101</p> <p>The remaining carcass shall be sent to Berkeley Natural History Museum at <a href="https://mvz.berkeley.edu/deadanimal/">https://mvz.berkeley.edu/deadanimal/</a> or California Academy of Sciences, at Herpetology, (415) 379-5292, or at <a href="mailto:LScheinberg@calacademy.org">LScheinberg@calacademy.org</a>.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | ITP Condition # 6.9.2 | Entire Project | Permittee |  |
| 51 | <p>If a golden eagle carcass or injured adult, nestling or abandoned egg is found, Permittee shall immediately notify the following CDFW representatives:</p> <p>Wildlife Diversity Program: Dan Applebee <a href="mailto:Daniel.Applebee@wildlife.ca.gov">Daniel.Applebee@wildlife.ca.gov</a>, (916) 516-3178</p> <p>Wildlife Health Laboratory, (916) 358-2790:<br/> Krysta Rogers <a href="mailto:Krysta.Rogers@wildlife.ca.gov">Krysta.Rogers@wildlife.ca.gov</a>; (916) 531-7647 and Heather Perry<br/> <a href="mailto:Heather.Perry@wildlife.ca.gov">Heather.Perry@wildlife.ca.gov</a>; (916) 317-0229</p> <p>The Designated Biologist or Designated Representative shall collect the carcass and place it in a clean, sealed, plastic bag with a specimen label, and temporarily store it in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. The Designated Biologist or Designated Representative shall contact Krysta Rogers to coordinate carcass shipment or transfer.</p> <p>The Designated Biologist or Designated Representative shall deliver any injured eagles to a rehabilitator licensed by CDFW (<a href="https://wildlife.ca.gov/Conservation/Laboratories/Wildlife-Health/Rehab/Facilities">https://wildlife.ca.gov/Conservation/Laboratories/Wildlife-Health/Rehab/Facilities</a>). For further information regarding facilities authorized to temporarily house injured eagles, contact the Department's Wildlife Rehabilitation Program Coordinator, Heather Perry.</p> | ITP Condition # 6.9.3 | Entire Project | Permittee |  |
| 52 | <p>Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 6.9. Notification shall include the name of the facility where the animal was taken.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | ITP Condition # 7.4   | Entire Project | Permittee |  |
| 53 | <p>If an active golden eagle nest is disturbed or abandoned and determined to be caused by Covered Activities or activities related to the Project as determined by the Designated Biologist in consultation with CDFW, the Permittee shall transport the eggs/young or injured adult to a wildlife hospital/veterinarian for care, as described in the Golden Eagle Handling, Care, and Rehabilitation Plan as required in Condition of Approval 7.19.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | ITP Condition # 7.4.1 | Entire Project | Permittee |  |

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| 54 | Additional Impacts to Habitat. No impacts to Covered Species habitat beyond the permanent loss of 0.96 acre of habitat for the Covered Species and temporary (less than one year) loss of 0.05 acre of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts.                                                                                                                                                                                                                              | ITP Condition # 6.10 | Entire Project | Permittee |  |
| 55 | 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 temporary impact; and (2) temporary impact sites have achieved vegetation success as described in the Vegetation Restoration Plan (see Condition of Approval 6.13).                                                                                                                                                                    | ITP Condition # 6.11 | Entire Project | Permittee |  |
| 56 | Temporary Impact Restoration Schedule. Prior to initiating any temporary impacts, Permittee shall ensure that a Temporary Impact Restoration Schedule has been developed that ensures: (1) removal of gravel, recontouring and seeding of temporary impact areas shall occur prior to October 31 of each year where the impacts occur; and (2) all temporary impacts from prior years have met the October 31 recontouring and seeding criteria and have achieved vegetation success as described in the Vegetation Restoration Plan (See Condition of Approval 6.13). | ITP Condition # 6.12 | Entire Project | Permittee |  |
| 57 | Vegetation Restoration. Permittee shall prepare a Vegetation Restoration Plan (Restoration Plan) to restore Covered Species habitat that will be temporarily disturbed during construction to pre-Project or better conditions. Permittee shall submit the Restoration Plan to CDFW for approval within at least 15 days prior to the start of restoration activities. The Restoration Plan shall identify plant species damaged or removed during Project activities. The Restoration Plan shall include the following restoration standards:                         | ITP Condition # 6.13 | Entire Project | Permittee |  |

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| 58 | <p>Performance Standards. To be considered a successful restoration site, Permittee shall meet the following performance standards:</p> <p>Permittee shall pre-designate each restoration area for establishment of a specific native vegetation community, based on slope, aspect, hydrological conditions, and if applicable, adjacent native vegetation. The seed mix for each restoration site shall be tailored to achieve the species composition of the pre-designated vegetation community. The distribution of vegetation communities within the restoration area shall be roughly proportionate to any native vegetation communities impacted. Following restoration, the species composition of each restoration site shall closely match that of the associated reference site.</p> <p>Seed mixes shall include only locally native species at a ratio appropriate to the site, with an emphasis on native bunchgrasses and other grassland species. Local native wildflower seed may also be included in the mix. Seed may be collected from within the Project Area. Additional seed shall be sourced from Alameda and Santa Clara counties where feasible (i.e., original genetic material shall have been collected within this area) or from adjacent counties with similar ecotype; however, the seed may be purchased from a seed farm outside of this area. For seeding and mulching exposed slopes, the seed blend may include one or two sterile non-native perennial grass species.</p> <p>Permittee shall complete seeding prior to winter rains, but no later than November 15 of the year of the impact. At the discretion of CDFW, all exposed areas where seeding is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding, straw, or mulch as soon as is practical on a date mutually agreed upon.</p> <p>No more than 15 percent (%) of the vegetation in each restoration site shall consist of species designated as high or moderate invasive plants in the California Invasive Plant Council's (Cal-IPC) California Invasive Plant Inventory Database (<a href="http://www.cal-ipc.org/paf/">http://www.cal-ipc.org/paf/</a>). If the presence of invasive species exceeds this threshold, Permittee is responsible for conducting appropriate control activities in coordination with the property owner.</p> <p>Monitoring and Maintenance. Permittee is responsible for monitoring and maintaining the restored areas for a period of three years or until the Restoration Plan success criteria have been met, whichever is longer. After 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 6.13.1, Permittee may submit the 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 6.13.1, 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 annual restoration reports (see Condition 6.4) to CDFW until the standards have been met. Replacement plantings shall be monitored with the same survival and growth requirements for three years after planting.</p> | ITP Condition # 6.13.1, 6.13.2, 6.13.3 | Entire Project | Permittee |  |
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| 59 | <p>Tracking Impacts. Permittee shall track temporary and permanent impacts to Covered Species habitat and notify CDFW if impacts to such habitat are likely to be exceeded in the coming month. Permittee shall submit an appropriately revised Project construction schedule (see Condition 6.18) within seven days in order to ensure temporary impacts remain within the temporary impact criteria according to Condition of Approval 6.11. If temporary impact criteria cannot be met, then the Permittee shall apply for an amendment to this ITP to address additional impacts.</p> <p>If CDFW determines in writing that the temporary or permanent impacts to Covered Species habitat has been exceeded, Permittee shall cease all new construction activities until appropriate authorization has been provided if so directed in writing by CDFW.</p> | ITP Condition # 6.14 | Entire Project | Permittee |  |
| 60 | <p>California Tiger Salamander Relocation. The Designated Biologist shall relocate any California tiger salamander found within the Project Area to be impacted to an active rodent burrow system located no more than 300 feet outside of the Project Area unless otherwise approved by CDFW in writing. The Designated Biologist shall document both the capture and relocation areas by photographs and GPS positions. The California tiger salamander shall be photographed and measured (Snout-Vent) for identification purposes prior to relocation. All documentation shall be provided to the CDFW within 24 hours of California tiger salamander relocation.</p>                                                                                                                                                                                       | ITP Condition # 7.10 | Entire Project | Permittee |  |
| 61 | <p>Inspection of Pipes and Culverts. Permittee shall ensure all construction pipes, culverts, or similar structures that are stored at the Project site for one or more overnight periods shall be securely capped prior to storage or inspected by the Designated Biologist before the pipe is subsequently buried, capped, or otherwise used or moved in any way. If a Covered Species is discovered inside a pipe by the Designated Biologist or anyone else, the Covered Species shall be allowed to leave its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project Area and in accordance with the Conditions of Approval 7.5 and 7.10.</p>                                                                                                                        | ITP Condition # 7.7  | Entire Project | Permittee |  |
| 62 | <p>Vehicle and Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Permittee shall contact the Designated Biologist to determine if the Designated Biologist can safely move the Covered Species in Accordance with Conditions of Approval 7.5 and 7.10.</p>                                                                                                                                                                                                                                                                                                                                                                      | ITP Condition # 7.8  | Entire Project | Permittee |  |
| 63 | <p>Erosion Control. Permittee shall ensure all erosion and sediment control measures are installed prior to earth moving Covered Activities on any phase of the Project. 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. Permittee, Designated Representative, or other trained staff shall monitor erosion control measures before, during, and after each storm event and repair and/or replace ineffective measures immediately.</p>                                                                                                                                                                                                                                                                                 | ITP Condition # 7.9  | Entire Project | Permittee |  |

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| 64 | <p>Trench Escape and Inspection. The Designated Biologists and trained construction foreman/manager, supervised by the Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning of each day for trapped animals. To prevent inadvertent entrapment of Covered Species, the Designated Biologist(s) shall oversee the covering of all trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that Covered Species are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. Each morning prior to beginning Covered Activities and immediately before trenches, holes, sumps, or other excavations are back-filled, the Designated Biologist(s) and/or construction foreman/manager shall thoroughly inspect them for Covered Species. Trenches, holes, sumps, or other excavations that are covered long-term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately if any worker discovers that Covered Species have become trapped. If at any time a trapped Covered Species is discovered by the Designated Biologist or anyone else, the Designated Biologist shall capture and relocate the animal to a safe nearby location per Condition of Approval 7.5 and 7.10.</p> <p>If the open holes, sumps, trenches or excavations cannot be covered then the Permittee shall install a temporary barrier around any trenches, holes, sumps, or other excavations to prevent Covered Species from becoming trapped. Refuge opportunities, such as cover boards (3-foot x 3-foot plywood), shall be provided on the outside perimeter of the barrier.</p> | ITP Condition # 7.6  | Entire Project | Permittee |  |
| 65 | <p>Augering and Excavation. The Designated Biologist shall survey all augering and excavation soils material for California tiger salamanders. The Permittee shall ensure auger bits are cleaned by shaking the soil loose and not cleaned by spinning. The Permittee shall ensure excavation is coordinated with the Designated Biologist to allow sufficient time to survey the excavated soil.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ITP Condition # 7.11 | Entire Project | Permittee |  |
| 66 | <p>Pre-Activity Surveys. The Designated Biologist shall inspect all ruts and holes near root structures, foundations, abutments, etc. for California tiger salamander immediately prior to and during excavation or removal. A Designated biologist shall survey the open areas adjacent to ongoing construction. Multiple biologists may be necessary to survey the area appropriately. If a California tiger salamander is discovered by the Designated Biologist or anyone else, the Designated Biologist shall move the animal to a safe nearby location (e.g. mouth of ground-squirrel burrow outside of the temporary barrier) per Condition of Approval 7.5 and 7.10 and monitor it until it is determined that it is not imperiled by predators or other dangers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | ITP Condition # 7.12 | Entire Project | Permittee |  |

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| 67 | Daily Surveys. The Designated Biologist shall conduct walking, pre-construction surveys for Alameda whipsnakes prior to the initiation of Covered Activities each day including excavated/dewatered areas. In addition, the Designated Biologist shall walk in front of the earthmoving equipment while Covered Activities are being conducted, if it can be done safely. If an Alameda whipsnake is discovered, the Designated Biologist shall have the authority to halt construction until the Alameda whipsnake leaves the area of its own accord, or if it can be safely captured, it shall be relocated by the Designated Biologist to a suitable location outside of the Project.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | ITP Condition # 7.14   | Entire Project | Permittee |  |
| 68 | Access Roads. The Designated Biologist shall inspect the entire access route for Covered Species each day when Covered Activities are occurring between March 15 and October 31 of each year. Inspections shall occur in the morning prior to Project related vehicle access (unless Project related vehicle traffic occurs prior to sunrise) and in the afternoon prior to Project related vehicles exiting the Project Area. If a Designated Biologist finds a dead Alameda whipsnake on the access route, Permittee shall consult with CDFW to determine appropriate contingency measures, such as traffic control or vehicle escorts, and shall implement the measures determined appropriate by CDFW.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | ITP Condition # 7.15   | Entire Project | Permittee |  |
| 69 | Vegetation Marked for Protection. Permittee shall ensure vegetation is removed prior to grading. Prior to clearing and grubbing operations, the Designated Biologist shall clearly mark vegetation within the Project Area that shall be avoided. Vegetation outside the Project Area shall not be removed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | ITP Condition # 7.16   | Entire Project | Permittee |  |
| 70 | Vegetation Removal Methods. Where possible, Permittee shall use hand tools (e.g., trimmer, chain saw, etc.) to trim or remove vegetation. All vegetation removal shall be monitored by the Designated Biologist to minimize impacts to the Covered Species.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | ITP Condition # 7.17   | Entire Project | Permittee |  |
| 71 | Nest Monitoring. The Designated Biologist or Biological Monitor shall monitor the behavior of golden eagles within disturbance distance of the Covered Activities. Even within species, disturbance distances can vary according to time of year or geographical location. The Designated Biologist shall observe from greater than 1,312 feet (400 meters) from the nest where feasible or a location where the Designated Biologist determines there is no impact to golden eagle adults or offspring. If feasible and allowed under the existing USFWS ITP, the Permittee shall install a remote camera during the non-breeding season to monitor the current nest location. However, due to the nest location changing from year to year, regular nest monitoring may not be feasible. The Designated Biologist or Biological Monitor shall have authority to order the cessation of all Project activities within disturbance distance of a golden eagle nest if the birds exhibit abnormal nesting behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Abnormal nesting behaviors which may cause reproductive harm include but are not limited to defensive flights/vocalizations directed towards project personnel, standing up from a brooding position, interrupted feeding patterns, and flying away from the nest. Covered Activities within line of sight of the nest shall not resume until the Designated Biologist has consulted with CDFW and USFWS and there is concurrence that the bird's behavior has normalized, or the young have left the nest. Results of monitoring shall be included in the Monthly and Annual Reports (Conditions of Approval 6.5 and 6.6). | ITP Condition # 7.18.1 | Entire Project | Permittee |  |

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| 72 | Adaptive Management. Adaptive Management shall include mortality reduction actions for the duration of this ITP unless updated by CDFW to reflect best available science, in which case CDFW will contact the Permittee to discuss needed updates. As provided for in Fish and Game Code section 2081.15, subdivisions (a)(3) and (d), this ITP's conditions of approval may be amended when necessary to minimize and fully mitigate the impacts of the authorized take of golden eagle. The Designated Biologist may also propose updates to the CDFW-approved Adaptive Management Plan as a result of new information gathered through compliance monitoring.                                                                                                                                                                                                                                                                                                                                                 | ITP Condition # 7.18.2 | Entire Project | Permittee |  |
| 73 | Loud Intermittent Activity. The Permittee shall avoid loud intermittent activities from when eggs are laid until chicks are greater than three weeks old. Permittee shall avoid conducting loud intermittent activities between after egg laying and fledging until nest is no longer in use when there is inclement weather, such as high winds, precipitation, or extreme temperatures (<45 or >90 degrees Fahrenheit). Permittee shall use all available and practicable methods and technology to reduce the noise generated by the Covered Activities. These may include but are not limited to vibratory pile driving or constructed sound barriers.                                                                                                                                                                                                                                                                                                                                                       | ITP Condition # 7.20   | Entire Project | Permittee |  |
| 74 | Rodenticides. Permittee shall avoid outdoor use of rodenticides. This ITP does not authorize the killing or injury of eagles resulting from rodenticide exposure.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | ITP Condition # 7.21   | Entire Project | Permittee |  |
| 75 | Time of Day Work Restriction. Permittee shall restrict work activities to between sunrise and sunset, based on times established by the U.S. Naval Observatory Astronomical Applications Department except when required for critical path shut-down work and concrete pours which require cooler temperatures. This work will not occur on nights when it is raining. The Permittee may access staging areas up to 30 minutes prior to sunrise if escorted onto the Project Area by a Designated Biologist. Any variation in time of day restriction must be approved in writing by the CDFW Representative.                                                                                                                                                                                                                                                                                                                                                                                                    | ITP Condition # 7.1    | Entire Project | Permittee |  |
| 76 | Work Period. Permittee shall confine work within the stream/riparian corridor to the period July 1 to October 31. Revegetation work is not confined to this time period.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | ITP Condition # 7.2    | Entire Project | Permittee |  |
| 77 | Wet Season Work Restriction. Covered Activities involving ground disturbing and heavy equipment use (such as excavation, grading, and contouring) during the wet season (November 1 to April 30) shall be subject to approval of CDFW. If approved by CDFW, Permittee shall monitor the National Weather Service (NWS) 72-hour forecast for the Project Area. Covered Activities involving ground disturbing activities and heavy equipment use shall cease 24 hours prior to a 40 percent or greater forecast of rain. Covered Activities may continue 24 hours after the rain ceases if and there is less than a 40 percent change of precipitation in the 24-hour forecast.<br><br>If CDFW approves wet season work, a Designated Biologist(s) shall survey the Project site EACH day rain is forecast and the morning after all storm events. If rain exceeds 0.25 inches during a 24-hour period, work shall cease until there is a less than a 40 percent change of precipitation in the 24-hour forecast. | ITP Condition # 8.10   | Entire Project | Permittee |  |

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| 78                       | <p>Covered Species Handling and Injury. Covered Species shall be handled and assessed according to the Restraint and Handling of Live Amphibians USGS, National Wildlife Health Center (D. Earl Greene, ARMI SOP NO. 100; 16 February 2001) (Attachment 2). If an injured Covered Species is found during the Project term, the individual shall be evaluated by the Designated Biologist who shall then immediately contact the CDFW Regional Representative, via email and telephone, to discuss the next steps. If the CDFW Regional Representative cannot be contacted immediately, the injured Covered Species shall be placed in a shaded container and kept moist. If the CDFW Regional Representative is not available or has not responded within 15 minutes of initial attempts then the following steps shall be taken by the Designated Biologist:</p> <p>If the injury is minor or healing and the Covered Species is likely to survive, the salamander shall be released immediately in accordance with the Condition of Approval 8.2.</p> <p>If it is determined that the Covered Species has major or serious injuries as a result of Project-related activities, the Designated Biologist shall immediately take it to the Lindsay Wildlife Experience or another CDFW approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by the CDFW and U.S. Fish and Wildlife Service. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report as described in Condition of Approval 7.9.</p> | ITP Condition # 8.11 | Entire Project    | Permittee |  |
| 79                       | <p>Notification of Non-Native Tiger Salamanders or Hybrids. The Designated Biologist shall immediately notify CDFW if a non-native barred tiger salamander (<i>Ambystoma tigrinum mavortium</i>) or California tiger salamander hybrid is found or suspected within the Project Area within 24 hours by calling CDFW's Regional Representative. The Designated Biologist shall not release any non-native or hybrid salamanders back to the wild until directed to do so by CDFW. The Designated Biologist shall follow the Covered Species Handling and Injury measures outlined in this ITP (see Condition of Approval 7.4 and 7.5.)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | ITP Condition # 7.13 | Entire Project    | Permittee |  |
| <b>POST-CONSTRUCTION</b> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                      |                   |           |  |
| 80                       | <p>Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all 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.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | ITP Condition # 5.15 | Post-construction | Permittee |  |

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| 81 | <p>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.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | ITP Condition # 6.8 | Post-construction and after completion of mitigation | Permittee |  |
| 82 | <p>Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <ul style="list-style-type: none"> <li>• Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits;</li> <li>• Timely submission of all required reports; and</li> <li>• Documentation of purchase of power pole retrofit credits</li> </ul> <p>OR</p> <ul style="list-style-type: none"> <li>• Written documentation of the acquisition of the HM lands;</li> <li>• Documentation of purchase of power pole retrofit credits</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> <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 # 9.7 | After all Requirements are met                       |           |  |
| 83 | CDFW accepts the Final Mitigation Report as complete.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |                     | Post-construction                                    | CDFW      |  |

**BIOLOGIST RESUME**

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

**COVER SHEET**

SUBMIT EACH RESUME AS A SEPARATE DOCUMENT

| Name | Requested Role(s) <sup>1</sup> | Species/Resource(s) |
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This form requests information about the qualifications of the Qualified Biologist, Designated Biologist and Biological Monitor specified in California Endangered Species Act Incidental Take Permits (ITP) and Lake or Streambed Alteration (LSA) Agreements issued by California Department of Fish and Wildlife (CDFW). **Completing this form will ensure the receipt of adequate information and expedite CDFW review of qualifications.**

<sup>1</sup> Requested roles correspond to the biological staffing requirements indicated in the Lake and Streambed Alteration (LSA) Agreement or California Endangered Species Act Incidental Take Permit (ITP). Roles may include a "Qualified Biologist" or "Designated Biologist" with the necessary experience to survey for special status species, or a "Biological Monitor" with the necessary experience to monitor construction activities for special status species. An individual may request more than one role.



# BIOLOGIST RESUME

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

## SECTION I. NAME AND CONTACT INFORMATION

Name:

Title:

Company Name & Address:

Phone:

Email:

## SECTION II. EDUCATION

College/University & Degree Type Related to Natural Resource Science:

Other Relevant Workshops & Training:

## SECTION III. ROLE(S) AND PERMIT REQUIREMENTS

Requested Role(s):

Relevant LSA Agreement Measures or ITP Conditions<sup>2</sup>:

## SECTION IV. SPECIES AND RESOURCE EXPERIENCE – SUMMARY

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

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

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

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



# BIOLOGIST RESUME

Project Name: [Click or tap here to enter text.](#)

LSA Agreement/ITP Number(s): [Click or tap here to enter text.](#)

## SECTION V. SPECIES AND RESOURCE EXPERIENCE – DETAILS

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

### SPECIES OR RESOURCE 1:

Project 1 Name & Location:

Project Start Date:

Project End Date:

LSA Agreement, ITP, or Other Agency Permit Number:

Role(s)<sup>4</sup>:

Survey Type(s)<sup>5</sup>:

Construction Monitoring<sup>6</sup>

Days:

Activities:

Species Life Stages Observed & Handled, Number of Each

Company Name, Professional Reference Name, Phone, Email:

Life Stage:

Number Observed:

Number Handled:

Reported to

CNDDB<sup>7</sup> (Y/N):

If not reported to CNDDB, why:

CDFW and Other Agency Email:

Project 2 Name & Location:

Project Start Date:

Project End Date:

LSA Agreement, ITP, or Other Agency Permit Number:

Role(s):

Survey Type(s):

Construction Monitoring:

Days:

Activities:

Species Life Stages Observed & Handled, Number of Each

Company Name, Professional Reference Name, Phone, Email:

Life Stage:

Number Observed:

Number Handled:

Reported to

CNDDB (Y/N):

<sup>4</sup> Insert the role as described in the associated LSA Agreement, ITP or other agency permit. If these permits were not issued, describe the role based on the duties, e.g., "lead biologist with handling authorization" or "biological monitor."

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

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

<sup>7</sup> CNDDB is the abbreviation for California Natural Diversity Database.

**BIOLOGIST RESUME**

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

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



**BIOLOGIST RESUME**

Project Name: [Click or tap here to enter text.](#)

LSA Agreement/ITP Number(s): [Click or tap here to enter text.](#)

|                                                                                                                                                                                               |                                                                 |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|
| <b>Project 2 Name &amp; Location:</b>                                                                                                                                                         |                                                                 |
| <b>Project Start Date:</b>                                                                                                                                                                    | <b>Project End Date:</b>                                        |
| <b>LSA Agreement, ITP, or Other Agency Permit Number:</b>                                                                                                                                     |                                                                 |
| <b>Role(s):</b>                                                                                                                                                                               |                                                                 |
| <b>Survey Type(s):</b>                                                                                                                                                                        |                                                                 |
| <b>Construction Monitoring</b><br><b>Days:</b><br><b>Activities:</b>                                                                                                                          |                                                                 |
| <b>Species Life Stages Observed &amp; Handled, Number of Each</b><br><br><b>Life Stage:</b><br><b>Number Observed:</b><br><b>Number Handled:</b><br><b>Reported to</b><br><b>CNDDB (Y/N):</b> | <b>Company Name, Professional Reference Name, Phone, Email:</b> |
| <b>If <u>not</u> reported to CNDDB, why:</b>                                                                                                                                                  |                                                                 |
| <b>CDFW and Other Agency Email:</b>                                                                                                                                                           |                                                                 |
| <b>Project 3 Name &amp; Location:</b>                                                                                                                                                         |                                                                 |
| <b>Project Start Date:</b>                                                                                                                                                                    | <b>Project End Date:</b>                                        |
| <b>LSA Agreement, ITP, or Other Agency Permit Number:</b>                                                                                                                                     |                                                                 |
| <b>Role(s):</b>                                                                                                                                                                               |                                                                 |
| <b>Survey Type(s):</b>                                                                                                                                                                        |                                                                 |
| <b>Construction Monitoring</b><br><b>Days:</b><br><b>Activities:</b>                                                                                                                          |                                                                 |
| <b>Species Life Stages Observed &amp; Handled, Number of Each</b><br><br><b>Life Stage:</b><br><b>Number Observed:</b><br><b>Number Handled:</b><br><b>Reported to</b><br><b>CNDDB (Y/N):</b> | <b>Company Name, Professional Reference Name, Phone, Email:</b> |
| <b>If <u>not</u> reported to CNDDB, why:</b>                                                                                                                                                  |                                                                 |
| <b>CDFW and Other Agency Email:</b>                                                                                                                                                           |                                                                 |
| <b>SPECIES OR RESOURCE 3:</b>                                                                                                                                                                 |                                                                 |
| <b>Project 1 Name &amp; Location:</b>                                                                                                                                                         |                                                                 |
| <b>Project Start Date:</b>                                                                                                                                                                    | <b>Project End Date:</b>                                        |
| <b>LSA Agreement, ITP, or Other Agency Permit Number:</b>                                                                                                                                     |                                                                 |



**BIOLOGIST RESUME**

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

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



**BIOLOGIST RESUME**

Project Name: [Click or tap here to enter text.](#)

LSA Agreement/ITP Number(s): [Click or tap here to enter text.](#)

|                                                                                                                                                                                      |                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|
| <b>Days:</b><br><b>Activities:</b>                                                                                                                                                   |                                                                 |
| <b>Species Life Stages Observed &amp; Handled, Number of Each</b><br><br><b>Life Stage:</b><br><b>Number Observed:</b><br><b>Number Handled:</b><br><b>Reported to CNDDDB (Y/N):</b> | <b>Company Name, Professional Reference Name, Phone, Email:</b> |
| <b>If <u>not</u> reported to CNDDDB, why:</b>                                                                                                                                        |                                                                 |
| <b>CDFW and Other Agency Email:</b>                                                                                                                                                  |                                                                 |

**[Financial institution letterhead]**

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

---

Issue Date: **[date]**

Beneficiary:

California Department of Fish and Wildlife  
Habitat Conservation Planning Branch  
960 Riverside Parkway, Suite 90  
West Sacramento, CA 95605  
Attn: HCPB Mitigation Funds

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

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

Dear Sirs:

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

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

6. The Certificate shall be completed and signed by an Authorized Representative of CDFW as defined in paragraph 12 below. Presentation by CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.
7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of CDFW, as defined in paragraph 12 below.
12. An Authorized Representative shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Manager of CDFW's Habitat Conservation Planning Branch.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at [***name and address of financial institution***], specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 960 Riverside Parkway, Suite 90, West

Sacramento, CA 95605, Attn: HCPB Mitigation Funds; and (ii) for the Applicant:  
**[name and address of applicant]**.

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

**[Name of financial institution]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone: \_\_\_\_\_

ATTACHMENT A

CERTIFICATE FOR DRAWING

[*CDFW Letterhead*]

[*Date*]

[*Name and address of financial institution*]

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

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

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

Therefore, CDFW has executed and delivered this Certificate as of this \_\_\_\_day of [*month*], [*year*].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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

ATTACHMENT B

CERTIFICATE FOR CANCELLATION

[**CDFW Letterhead**]

[**Date**]

[**Name and address of financial institution**]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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

State of California - Department of Fish and Wildlife

**MITIGATION PAYMENT TRANSMITTAL FORM**

DFW 1057 (REV.05/18/21)

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

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

**4. AGREEMENT/ACCOUNT INFORMATION:** (check the applicable type)
☐ 2081 Permit    ☐ Conservation Bank    ☐ 2835 NCCP    ☐ 1802 Agreement    ☐ 1600 Agreement    ☐ Other \_\_\_\_\_

 \_\_\_\_\_  
 Project Tracking Number
**5. PAYMENT TYPE** (One check per form only): The following funds are being remitted in connection with the above referenced project:Check information:

Total \$ \_\_\_\_\_ Check No. \_\_\_\_\_

Account No. \_\_\_\_\_ Bank Routing No. \_\_\_\_\_

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

b. Habitat Enhancement Subtotal \$ \_\_\_\_\_

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ \_\_\_\_\_

2. Letter of Credit Subtotal \$ \_\_\_\_\_

1. Financial Institution: \_\_\_\_\_

2. Letter of Credit Number: \_\_\_\_\_

3. Date of Expiration: \_\_\_\_\_

| <b>ACCOUNTING OFFICE USE ONLY</b>                 |                |
|---------------------------------------------------|----------------|
| Description                                       | FI\$Cal Coding |
| Speedchart<br>(Project, Program, Reference, Fund) |                |
| Reporting Structure                               |                |
| Category                                          |                |
| Date Established: _____ By: _____                 |                |

Please send this form to [asbmitigation@wildlife.ca.gov](mailto:asbmitigation@wildlife.ca.gov)