



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

California Endangered Species Act
Incidental Take Permit No. 2081-2009-010-04
(Amendment No. 4)

**UNIVERSITY OF CALIFORNIA, MERCED
CAMPUS AND COMMUNITY NORTH PROJECT**

I. Authority:

This California Endangered Species Act (CESA) Incidental Take Permit (ITP) is issued by the Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take¹ of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.² However, CDFW, may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c). (See Cal. Code Regs., tit. 14, § 783.4.)

Permittee 1: Regents of the University of California
Principal Officer: Juan Sánchez Muñoz, Ph.D., Chancellor of UC Merced
Contact Person: Phillip Woods, Director of Physical and Environmental Planning
(209) 349-2561
Mailing Address: University of California, Merced
5200 North Lake Road
Merced, California 95343

Permittee 2: Virginia Smith Trust
Principal Officer: Steve M. Tietjen, Merced County Superintendent of Schools and Executive Director of the Virginia Smith Trust
Contact Person: Steve M. Tietjen
(209) 381-6601
Mailing Address: Merced County Office of Education
632 West 13th Street
Merced, California 95341

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

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

Permittee 3: County of Merced
Principal Officer: Nathan Bray P.E., Director of Public Works/Road Commissioner
Contact Person: Nathan Bray
 (209) 385-7602
Mailing Address: Merced County Department of Public Works
 715 Martin Luther King Jr. Way
 Merced, California 95340

II. Amended ITP³ Background:

On March 30, 2011, the California Department of Fish and Wildlife (CDFW) (previously Fish and Game) issued the original ITP No. 2081-2009-010-04 to the Regents of the University of California (Permittee) for take of California tiger salamander (*Ambystoma californiense*), Swainson’s hawk (*Buteo swainsoni*), succulent owl’s clover (*Castilleja campestris* ssp. *succulenta*), Colusa grass (*Neostapfia colusana*), San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*), and San Joaquin kit fox (*Vulpes macrotis mutica*) (collectively, the Covered Species) associated with the University of California, Merced Campus and Community North Project (Project) in Merced County. The Project described in the original ITP includes the construction and operation of the University of California, Merced (UC Merced) Campus which will sustain up to 25,000 full-time students and a contiguous associated community to support the needs of UC Merced. At full build-out, the Project encompasses the approximately 815-acre Campus and 1,951-acre University Community, and sets aside 6,236 acres of Habitat Management (HM) lands as compensatory mitigation for Project-related take of the Covered Species. A portion of the HM lands consists of a 1,307-acre Campus Natural Reserve adjoining the Campus, which is not intended to be developed but would be used for the purposes of research, a vernal pool-grassland habitat/species laboratory for students, and for general education and outreach opportunities. The proposed 1,951-acre University Community is divided into an approximately 833-acre Community North and 1,118-acre Community South. Only the Campus and Community North (approximately 1,648 acres total) were proposed for development. Development of the Community South was not ready to move forward absent development agreements therefore Community South was not covered under the ITP nor subsequent amendments to the ITP.

On September 30, 2011, CDFW issued Major Amendment No. 1 to replace Condition of Approval Small Mammal Burrow Excavation with Salvage Efforts. The original ITP required the Permittee to excavate individual small mammal burrows to minimize direct take of California tiger salamander (CTS) but according to the Permittee, the original requirements of Condition of Approval Small Mammal Burrow Excavation would have been a cost prohibitive expense, logistically difficult to accomplish, and infeasible to implement across approximately 1,045 acres of CTS upland habitat within the Project site. CDFW replaced the original

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

requirements of Condition of Approval Small Mammal Burrow Excavation with Salvage Efforts, which requires the Permittee and Designated Biologist to visually inspect small mammal burrows or burrow complexes incidentally dug up or otherwise disturbed during Project activities. The resulting impacts to the Covered Species remained the same as the original ITP with Major Amendment No. 1.

On October 15, 2015, CDFW issued Major Amendment No. 2 to extend incidental take coverage to off-site wetland restoration activities at Lazy K Ranch (LKR) and Yosemite Lake Conservation Area (YLCA), which were required activities under the Permittee's Section 404 Clean Water Act Permit (SPK-1999-00203) issued by the U.S. Army Corps of Engineers, and require HM lands to be provided at LKR to fully mitigate impacts to the Covered Species. Major Amendment No. 2 updated the *Project Location* to include LKR and YLCA; updated the *Project Description* to describe wetland restoration activities at LKR and YLCA; updated the *Impacts of the Taking on Covered Species* to describe impacts resulting from restoration activities at LKR and YLCA and increase the acreage of impacts on CTS habitat to 1,905.5 acres of permanent impacts and 80 acres of temporary impacts; updated *CEQA Compliance* to reference California Environmental Quality Act (CEQA) documents for the Yosemite Lake Estates General Plan Amendment and LKR Off-Site Mitigation Preserve; updated Condition of Approval California Tiger Salamander Exclusion Fencing to allow for alternative CTS exclusion fence design and removed remaining references to small mammal burrow excavations that were not removed as part of Amendment No. 1; added Conditions of Approval Inoculum Collection and Wetland Restoration at YLCA to minimize impacts on CTS aquatic habitat during collection of inoculum and off-site wetland restoration activities; and under Condition of Approval Habitat Management Land Acquisition, added a requirement that the Permittee provide 65.5 acres of LKR owned in fee title by the Knapp Family as part of HM lands, which increased the total required HM lands acreage from 6,236 acres to 6,301.5 acres.

On June 22, 2020, CDFW issued Major Amendment No. 3 to add a second permittee; update the Project acreage following a transfer of land from University Community Land Company (UCLC, LLC) to the Virginia Smith Trust; remove all references to LKR; add YLCA to HM lands requirements; add clarifying language to multiple Conditions of Approval; and add additional requirements for CTS and Swainson's hawk (SWHA) minimization measures. Major Amendment No. 3 updated contact information for Regents of the University of California; added Virginia Smith Trust as a Permittee and a joint and severally liability clause to the ITP; removed LKR from the *Project Location* and *Project Description*; updated the acreage of the Campus footprint to 1,026 acres and the Community North footprint to 623 acres, for a total of 1,649 acres, and included an updated Figure 4 showing the updated Project footprint; updated *Impacts of the Taking on Covered Species* to add 50 acres of temporary habitat loss for San Joaquin kit fox (SJKF) and SWHA during wetland restoration activities at YLCA; added Designated Monitors to Conditions of Approval Designated Biologist and Designated Biologist Authority; clarified language in Conditions of Approval Dust Control, Hazardous Materials, Rain Forecast, Open Trenches, Raptor Surveys, Swainson's Hawk Nest Buffer, and Tree Removal to ensure that the Conditions of Approval

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are implemented as intended to minimize impacts to CTS and SWHA; changed Condition of Approval Salvage Efforts back to Small Mammal Burrow Surveys and Excavation to replace visual inspections of burrows with requirements to survey, excavate, and avoid small mammal burrows; added language to Condition of Approval California Tiger Salamander Exclusion Fencing allowing the Permittee to propose a substitute CTS exclusion fencing plan at specific locations; added language to Condition of Approval Tree Replacement requiring the Permittee to prepare and obtain CDFW's approval of a Swainson's Hawk Nest Tree Replacement Plan if/when nest trees are removed as part of the Project; and under Condition of Approval Habitat Management Land Acquisition, removed all references to LKR and the Knapp Family, added YLCA and Yosemite Lake Vernal Pool, LLC, and required Permittee to provide 75 acres of YLCA as part of HM lands requirements, which changed the total required HM lands acreage from 6,301.5 acres to 6,286 acres.

In issuing the original ITP, Major Amendment No. 1, Major Amendment No. 2, and Major Amendment No. 3, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval will fully mitigate impacts to the Covered Species and will not jeopardize the continued existence of the Covered Species. CDFW determined that the impacts of the taking were minimized and fully mitigated through permanent protection and perpetual management of compensatory habitat, as required by Fish and Game Code section 2081(b)(2).

On April 28, 2025, CDFW received an application and the corresponding application fee from the Permittee requesting a minor amendment to the ITP. The Permittee requested to add County of Merced (County) as a third permittee because the County will construct the Campus Parkway project on the west side of Community North (Figure 4c), and UC Merced will issue the County a right-of-way easement for the Campus Parkway project. The Campus Parkway is a roadway located on the east side of the City of Merced that will eventually extend from Highway 99 to UC Merced. The County completed the roadway segment between Highway 99 and Yosemite Avenue and needs to continue construction of the roadway to UC Merced. The Campus Parkway project was identified in the 2009 and 2020 UC Merced Long Range Development Plan (LRDP) and analyzed in the 2009 UC Merced and University Community Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and UC Merced 2020 LRDP Project Subsequent EIR. No new permit conditions are imposed as a result of this amendment, however CDFW determined that modifications to multiple Conditions of Approval were necessary to replace numerical references to Conditions of Approval by their title, add clarifying language to ensure that the Conditions of Approval are implemented as intended to minimize impacts on the Covered Species, add "Designated Monitors" where "Designated Monitors" was not added as part of Major Amendment No. 3, update CDFW contact information, and update *Liability* language as it relates to Amendment No. 4. In addition, the *Project Description* was updated to include the UC Merced 2020 LRDP Project Subsequent EIR because it is relevant to the Project and Campus Parkway. The following figures and attachments were added to the ITP: Figures 4a through 4c showing the 2020 LRDP land use designation and Campus Parkway Project; an updated Attachment 3 Habitat Management Lands Checklist; and Attachment 5, an optional

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Biologist Resume Form per Condition of Approval Designated Biologist(s) and/or Designated Monitor(s). CDFW finds that this Amendment (Major Amendment No. 4) is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5). Issuance of Major Amendment No. 4 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Major Amendment No. 4 increase other Project impacts on the Covered Species (i.e., “impacts of taking” as used in Fish and Game Code Section 2081, subd. (b)(2)).

CDFW now reissues this ITP including the revised provisions in Major Amendment No. 1, Major Amendment No. 2, Major Amendment No. 3, and Major Amendment No. 4 (collectively, the Amended ITP). The Amended ITP includes all the operative provisions as the effective date of this Amended ITP. Attachment 6 to this Amended ITP shows the specific red-line changes made to the ITP as a result of Major Amendment No. 4.

III. Effective Date and Expiration Date of this ITP:

The original ITP’s effective date was March 30, 2011. This remains the effective date for the original take authorization. This Amended ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP’s authorization to take the Covered Species shall expire on **February 28, 2036**.

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

IV. Project Location:

The inclusive Project Site is located in eastern Merced County, approximately two miles northeast of the limits of the City of Merced; occupying portions of Sections 26, 27, 34, and 35; Township 6 south; Range 14 east; and Sections 3 and 2; Township 7 south; Range 14 east (Mount Diablo Base and Meridian). The Project Site is south-southeast of Lake Yosemite Regional Park, east of Lake Road, and the southern boundary of the Project Site is Yosemite Avenue (Figures 1, 2, and 3).

In addition to the development of the Campus and Community North at the inclusive Project Site, the Project will include wetland restoration work on a portion of the nearby Yosemite Lake Conservation Area (YLCA) property. The triangular-shaped YLCA is located across Yosemite Lake from the inclusive Project Site, and constitutes approximately 397.5 acres of natural lands bound by the shores of Yosemite Lake on the southeast, the Croker-Hoffman Canal on the southwest, and by similar natural lands on the north. The YLCA occupies portions of Sections 28 and 27 of Township 6 South, Ranch 14 East, Mount Diablo Baseline and Meridian. Figure 10 depicts the YLCA. Project-specific activities on the YLCA include the restoration and permanent protection of approximately 25 acres of vernal pool habitat features and the permanent protection of 50 acres of upland habitat features.

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V. Project Description:

In 2002, the Regents of the University of California approved the development of the University of California, Merced (UC Merced) Project (Project) which consisted of an approximately 2,000-acre Campus and an adjacent 2,133-acre University Community with a 750-acre Campus Natural Reserve. Shortly thereafter, the University of California began construction of the first phase of the Campus on a 910-acre portion of the 2,000-acre site that did not contain any wetlands or species protected pursuant to CESA. During the construction of the first phase of the Project, CDFW staff met over the course of two years with the UC Merced staff, U.S. Fish and Wildlife Service (USFWS), U.S. Army Corps of Engineers (USACE), U.S. Environmental Protection Agency, and others to assist the University of California in developing focused mitigation strategies for inclusion in the Conservation Strategy for the Project and a modified Campus and associated University Community footprint which would further reduce impacts to species protected pursuant to CESA.

Through the process, the configuration of the Project was compressed. In 2009, the University of California prepared an updated UC Merced LRDP to address the changes in location and footprint and to guide the development of the Project. The Project as defined in the 2009 UC Merced and University Community EIR/EIS consisted of the construction and operation of a major research University campus in Merced County which will sustain up to 25,000 full time students and a contiguous associated community to support the needs of the University. In that EIR/EIS, the Project Site is comprised of an approximately 815-acre Campus; a 1,951-acre University Community; and a 1,307-acre Campus Natural Reserve which is not intended to be developed but would be used for the purposes of habitat mitigation, research, a vernal pool-grassland habitat/species laboratory for students, and for general education and outreach opportunities. The proposed University Community was divided into an approximately 833-acre University Community North and an approximately 1,118-acre University Community South (hereafter, Community North and Community South). Community North was owned by UCLC, LLC.

On June 14, 2016, the UCLC, LLC transferred 623 acres of the Community North property to the Virginia Smith Trust and the remainder to the University of California. With this change, the Campus footprint is now approximately 1,026 acres and the Community North area is approximately 623 acres, for a total of 1,649 acres which is approximately the same area that was analyzed in the 2009 EIR/EIS (Figure 4).

In March 2020, the University of California finalized the UC Merced 2020 LRDP (UC Merced 2020 LRDP Project Subsequent EIR) that substantially revised the 2009 LRDP. The 2020 LRDP was prepared as a result of the following changes to the LRDP and Project: 1) lower total student enrollment projections through 2030 (15,000 students); 2) updates to projected building space required to accommodate the projected growth; 3) acquisition of more land available for Campus development as a result of the transfer of a portion UCLC, LLC property to the Virginia Smith Trust; 4) adopt University of California sustainability practices and goals for UC Merced; 5) changes to the horizon year 2030 circulation plan (Figure 4a); and 6) replace 2009 LRDP land use designations with six new designations and acreages to inform

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development of the Campus (Figure 4b) (Campus Mixed Use, Campus Building Reserve and Support Land, Research Open Space, Active Open Space, Passive Open Space, and Campus Parkway Open Space).

At full build-out, the Campus would include an academic core consisting of instruction, research, and administrative buildings; student housing; campus support; limited commercial development; parking; recreation facilities; trails; transit, bike, and pedestrian paths; roads; connections to Community North; and infrastructure (stormwater collection/retention; potable water delivery; wastewater collection and treatment; fire and irrigation water; telecommunications, electric, and gas). The Community North would be developed with a town center, a business park; mixed-use commercial; cultural facilities; a range of density levels of multi-family housing and single-family residential neighborhoods; parks; open space; schools; transit, bike, and pedestrian paths; roads; parking; and other associated infrastructure. The Community South would be developed in accordance with the County of Merced's previously adopted University Community Plan.

It is important to note that due to the contiguous location of the University of California exclusively controlled Campus and Community North to the Community South; the Community South has been analyzed as part of the University Campus and the entire Community Project under both the CEQA and the National Environmental Policy Act. However, absent the execution of development agreements between the University of California, the County of Merced Local Agency Formation Commission, and the City of Merced, development of the Community South portion of the Project is not ready to move forward and is not covered under this ITP. However, the Community South is an integral part of the Project description in the broader context of analyzing the cumulative effects on the proposed Covered Species. Within the 1,648-acre development envelope, only the Campus and the Community North are currently being developed by the University of California and the Virginia Smith Trust. The expected Community North and Community South at full build-out would include 11,616 dwelling units and a total residential population of approximately 30,780 persons.

To mitigate for the Project-related loss of wetlands at the Campus and Community North under the Permittee's Section 404 Clean Water Act permit (SPK-1999-00203), wetland restoration efforts are being required of the Permittee by the USACE. This wetland restoration work will be conducted on 50 acres of the 397.5-acre YLCA.

In general, the wetland restoration activities at the YLCA will constitute the conversion of uplands to seasonal wetlands in areas where wetlands historically existed. To accomplish the wetland restoration work, ATVs/UTVs, light trucks, and heavy equipment (including scrapers, excavators, back-hoes, dozers, tractors, fuel trucks, dump trucks, and water trucks) will be used to excavate, stockpile, contour, compact, and transport soils. Permittee will ensure that at least 35.5 acres of the restored wetlands at YLCA are designed, constructed, and re-vegetated, protected, and perpetually managed as vernal pools representing CTS breeding habitat. After the wetlands are restored at the mitigation areas at the YLCA, inoculum will be

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collected from natural vernal pools and distributed within the restored vernal pool basins, coincident with, (but in advance of) the onset of the rainy season 2016. The inoculum will include surface available soils, seeds, and organic materials hand-raked and hand-vacuumed from within the natural vernal (donor) pools at the designated inoculum collection areas. In addition, at least 0.43-acre of restored wetlands associated with the Project will be suitable CTS breeding habitat.

Mitigation for the Permittee’s Section 404 Clean Water Act permit is also expected to include the permanent preservation of existing wetlands on three other parcels (Merced County Assessor’s Parcel Numbers 052-300-008, 052-300-011, and 052-300-012) in Merced County. It should also be noted the similar wetland restoration work will occur at the YLCA alongside but not coincident with the aforementioned Project-related restoration work there. All of the restored wetlands at the YLCA have been protected and perpetually managed under conservation easement recorded for both this Project and the Yosemite Lake Project (ITP No. 2081-2016-025-04).

For the purpose of discussion within this ITP, as amended, the Project Area includes the 1) development envelope within the inclusive Project Site encompassing the Campus and Community North; 2) the areas of wetland restoration the YLCA (50 acres) and the inoculum collection areas at YLCA; and 3) the 6,286 acres of Habitat Management lands.

VI. Covered Species:

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ⁴
1. California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ⁵
2. Swainson’s hawk (<i>Buteo swainsoni</i>)	Threatened ⁶
3. Succulent owl’s clover (<i>Castilleja campestris</i> ssp. <i>succulenta</i>)	Endangered ⁷
4. Colusa grass (<i>Neostapfia colusana</i>)	Endangered ⁸
5. San Joaquin Valley Orcutt grass (<i>Orcuttia inaequalis</i>)	Endangered ⁹
6. San Joaquin kit fox (<i>Vulpes macrotis mutica</i>)	Threatened ¹⁰

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

VII. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of

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

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

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

⁷See Cal. Code Regs. tit. 14 § 670.2, subd. (a)(22)(A).

⁸See Cal. Code Regs. tit. 14 § 670.2, subd. (a)(24)(A).

⁹See Cal. Code Regs. tit. 14 § 670.2, subd. (a)(24)(C).

¹⁰See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(6)(E).

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individuals of the Covered Species. The UC conducted a number of biological resource surveys in 2000 and 2001 on Project lands and Habitat Management (HM) lands to establish the environmental baseline in support of the USFWS issued 2002 Biological Opinion. Since those initial surveys were conducted, the UC conducted additional surveys in 2003, 2004, 2007, and 2008 to determine the density and distribution of the proposed Covered Species and the results were incorporated into the Final Conservation Strategy for the UC Merced Project (October 2008). The combined survey effort provided an intensive analysis that informed the calculation of occupied habitat acreages and number of known occurrences of species within the UC Merced Campus and the Community North (collectively, the Project Area) (Figures 5 through 9).

The activities described above that are expected to result in incidental take of individuals of the Covered Species include all of the ground and vegetation disturbance, construction, operation of heavy equipment, vehicle and foot traffic, and other activities necessary for the full development, operation, and maintenance of Campus and Community North, and the off-site wetland restoration activities at YLCA (collectively, Covered Activities). Any activities at Merced County Assessor's Parcel Numbers 052-300-008, 052-300-011, and 052-300-012 are not covered by this ITP. Incidental take of individuals of the Covered Species may occur from the Covered Activities in the form of mortality ("kill") from habitat loss and modification; Project-related ground and vegetation disturbance; removal or modification of the seed bank; heavy equipment operation; vehicle and foot traffic; inadvertent burrow collapse, and take during habitat restoration, management, and monitoring. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of catch, capture, or attempt to do so during trapping and relocation of individuals from the Project Area (salvage). The Project will also cause permanent and temporary loss of Covered Species habitat in the amounts indicated in Table 1, below. Other Project-related impacts are changes in the habitat that make the species more vulnerable to competition, disease, or predation; introduction or spread of invasive species; changes in drainage patterns that favors different vegetative growth; pesticide use; continued impacts from the routine operation and maintenance of Project infrastructure; temporal losses; increased habitat fragmentation and edge effects; and the Project's incremental contribution to cumulative impacts (indirect impacts).

In association with the off-site restoration activities, wetland restoration is expected to result in an increase of potential breeding habitat for CTS at YLCA and enhance the value of the adjacent uplands resulting from the restored breeding habitat. The wetland restoration area will not be available for SJKF and SWHA for foraging while restoration activities are in progress and these activities are expected to result in temporary impacts to 50 acres of foraging habitat for these species. The collection and distribution of inoculum at YLCA will be conducted during the dry season using only hand tools and will involve only small portions of natural pools without state listed (threatened, endangered, or rare) plants; therefore, impacts to the Covered Plant Species are not anticipated.

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Table 1. Covered Species Habitat Impacts

Species	Habitat Type	Number of Acres Impact
1. California tiger salamander	Non-native grassland (upland refugia)	1,895 acres permanent
	Wetland breeding	7.5 acres permanent
2. Swainson’s hawk	Non-native grassland (foraging)	1,514 acres permanent ^a 50 acres temporary ^b
	Nesting	1 nesting tree
3. San Joaquin kit fox	Non-native grassland	1,293 acres permanent ^a 726 acres temporary ^b
4. Succulent owl’s clover	Vernal pool	31 acres permanent
5. Colusa grass	Vernal pool	0 acres permanent ^c
6. San Joaquin Valley Orcutt grass	Vernal pool	0 acres permanent ^c

^a Permanent habitat impacts are based on the ability of the species to utilize open space within the fully built Project Area on a limited basis for foraging, movement corridors, and/or nesting and denning.

^b Twenty-five acres of temporary impacts resulting from wetland restoration activities at YLCA will temporarily make the area unavailable to SJKF and SWHA or as refugia for CTS. These areas will be available to use as foraging habitat for SJKF and SWHA during dry months when these activities are complete. Some of these wetland restoration areas will also provide suitable breeding habitat features for CTS when these activities are complete.

^c While Colusa grass and San Joaquin Valley Orcutt grass have not been identified in vernal pool habitat located on the UC Merced Campus and Community North, there is a strong likelihood both may be present within the Project Area based on the known abundance and distribution of these species on the adjacent HM lands.

VIII. Incidental Take Authorization of Covered Species:

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

IX. Fully Protected Species:

This ITP does not authorize the take of any fully protected species (Fish & G. Code, §§ 3511, 4700, 5050, and 5515). CDFW believes the Permittee can implement the Project as described in this ITP in a manner consistent with the Fish and Game Code provisions governing fully protected species. CDFW’s determination regarding Project consistency with

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Fish and Game Code provisions governing fully protected species is based, in part, on the Permittee's commitment independent of this ITP to implement and adhere to avoidance and minimization measures during Project implementation related to Golden eagle (*Aquila chrysaetos*) and White-tailed kite (*Elanus caeruleus*).

X. Conditions of Approval:

Unless specified otherwise, the following measures shall pertain to all Covered Activities within the Project Area, including areas used for ingress and egress. 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 State, federal, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance.** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the: 1) Final Environmental Impact Statement/Environmental Impact Report (SCH No.: 2008041009) certified by the University of California on March 19, 2009 as the lead agency for the Project pursuant to CEQA (Pub. Resources Code, § 21000 et seq.); 2) Final Environmental Impact Report (SCH No.: 1999011011) certified by the County of Merced on March 27, 2004 as the lead agency for the Yosemite Lakes Estates General Plan Amendment project; and 3) Final Subsequent Environmental Impact Report (SCH No.: 2018041010) certified by the University of California on March 19, 2020 as the lead agency for the UC Merced 2020 LRDP.
3. **ESA Compliance.** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Formal Section 7 consultation on the University of California, Merced Campus and Infrastructure Project (199900203), Merced County, California (August 19, 2002) Biological Opinion (BO) and the Supplement to the Biological Assessment (BA) for the University of California, Merced Campus and University Community North (September 2008) for the Project pursuant to the Federal Endangered Species Act (ESA), unless those terms and conditions are less protective of the Covered Species or conflict with the conditions of this ITP. Permittee shall adhere to and implement all of the avoidance, minimization, and mitigation measures and all other conservation actions in accordance with the Requirements and Parameters of the BO which include, but are not limited to, the Final Conservation Strategy for the UC Merced Project (October 2008) and the Management Plan for Conservation Lands and the Adjacent Campus Buildout Lands for the University of California, Merced (September 2008).
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.

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5. General Provisions:

- 5.1. Designated Representative.** Before initiating 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/or Designated Monitor(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of Designated Biologist(s) and/or Designated Monitor(s) at least 30 days before starting Covered Activities using the Biologist Resume Form (Attachment 5) or another format containing the same information. CDFW may approve Designated Biologist(s) for one or more Covered Species in this ITP. For example, CDFW may approve a Designated Biologist to implement all Conditions of Approval for CTS or approve a Designated Biologist to implement all Conditions of Approval in this ITP. The Designated Biologist(s) maybe assisted by approved individuals identified as a Designated Monitor that may not meet the qualifications to be a Designated Biologist to assist in compliance monitoring and/or implementation of specific Conditions of Approval. Designated Monitor(s) and their specific activities shall be approved in advance and in writing by CDFW. Permittee shall ensure that the Designated Biologist(s) and Designated Monitor(s) are knowledgeable and experienced in the biology and natural history of the Covered Species. The Designated Biologist(s) and Designated Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Designated Monitor(s) in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist(s) or Designated Monitor(s) must be changed.
- 5.3. Designated Biologist and/or Designated Monitor Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist(s) and/or Designated Monitor(s) shall have authority to immediately stop any activity that is not in compliance with this ITP, and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species, or a species not covered by this ITP. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist(s) and/or Designated Monitor(s) in the performance of their duties. If the Designated Biologist(s) and/or Designated Monitor(s) are unable to comply with the ITP, then the Designated Biologist(s) and/or Designated Monitor(s) shall notify the CDFW Regional Representative (detailed in the Notices section below) immediately. Permittee shall not enter into

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any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist(s)/Designated Monitor(s) that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.

- 5.4. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project Area 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.
- 5.5. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before they perform 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; the status of the Covered Species pursuant to CESA including legal protection; recovery efforts; penalties for violations; and the Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before they perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. Permittee shall also maintain a continuous public education program to inform the students, residents, and staff of sensitive resource protection needs.
- 5.6. Construction Monitoring Notebook.** The Designated Biologist(s) and Designated Monitor(s) shall maintain a construction-monitoring notebook on-site throughout the construction period which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review in the Project Area upon request by CDFW.
- 5.7. 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 closed (animal-proof) containers and removed regularly (at least once a week) to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.

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- 5.8. Firearms and Dogs.** Permittee shall prohibit firearms and domestic dogs from the Project Area and access routes during construction activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.
- 5.9. Animal Control Program.** Permittee shall develop and establish leash rules and an animal control program.
- 5.10. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat. This includes photodegradable or biodegradable synthetic netting.
- 5.11. Delineation of Work Areas.** A Work Area is defined as a discrete construction zone and associated access routes, access points, staging/stockpiling areas within the Project Area where Covered Activities will occur. Permittee shall clearly delineate the boundaries of the Work Area with fencing, stakes, or flags where Covered Activities are planned to occur in the immediate future and before starting Covered Activities. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags in effective condition until the completion of Covered Activities.
- 5.12. Delineation of Habitat.** Before starting Covered Activities, 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. Permittee shall maintain all fencing, stakes, and flags in effective condition until the completion of Covered Activities.
- 5.13. 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 that last more than four (4) hours and watering shall not occur if puddles cannot percolate prior to one (1) hour before dusk.
- 5.14. Project Access.** Project-related personnel shall access the Project Area using existing routes and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. Permittee shall strictly prohibit off-road traffic outside the designated Project Area. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for

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written approval before carrying out such an activity. CDFW may require an amendment to this ITP, if among other reasons, if additional take of Covered Species or Covered Species habitat impacts will occur as a result of the Project modification.

- 5.15. 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.
- 5.16. Hazardous Materials.** Permittee shall immediately stop and following 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, except in areas that have completed development and have been determined not to be Covered Species habitat by the Designated Biologist, and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.17. Refuse Removal.** Upon completion of construction 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 in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 6.3. Compliance Monitoring.** Initially, the Designated Biologist shall be on-site daily when Covered Activities occur. If Covered Activities occur in more than one Work Area, a Designated Biologist(s) shall be present on site in all Work Areas to conduct compliance inspections. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species and to check for

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compliance with all mitigation and avoidance measures; (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. Eventually, CDFW may approve, in writing, periodic inspections once Covered Activities are on-going and more routine in nature. To reduce compliance inspections, Permittee shall submit a written request to CDFW, including any additional information that CDFW requests to demonstrate that Covered Activities are on-going and more routine in nature.

- 6.4. CNDDDB Observations.** The Designated Biologist shall submit all confirmed Covered Species sightings to the California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation. The Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology, the name of the party that actually identified the plant or animal, circumstances of the incident, the general condition and health of each individual, any diagnostic markings, sex, age (juvenile or adult), actions undertaken, and habitat description.
- 6.5. Monthly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval Compliance Monitoring into a Monthly Compliance Report (MCR) and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Permittee shall submit MCRs to CDFW no more than 15 days after the end of the month. MCRs shall be submitted to CDFW's Central Region Office, Regional Representative, and Headquarters CESA Program. At the time of this ITP's approval, the Central Region Office email is R4CESA@wildlife.ca.gov, with a copy to the Regional Representative Ruby Kwan (Ruby.Kwan@wildlife.ca.gov) and Headquarters CESA Program (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 MCRs, (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

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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 minimizing and mitigating Project impacts; (5) all available information about Project-related take of the Covered Species; (6) survivorship rates of Swainson's hawk replacement trees pursuant to Condition of Approval Tree Replacement; and (7) information about other Project impacts on the Covered Species. Permittee shall submit ASRs to CDFW's Central Region Office, Regional Representative, and Headquarters CESA Program.

- 6.7. 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 MCRs 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 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.
- 6.8. Notification of Take.** Permittee shall immediately notify the Designated Biologist if a Covered Species is killed or taken 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 (559) 243-4005 and by email to CDFW's Central Region Office (R4CESA@wildlife.ca.gov) and Regional Representative (Ruby.Kwan@wildlife.ca.gov). The initial notification to CDFW shall include information regarding the location, species, number of animals taken or injured, name of the CDFW-approved facility where the animal was taken, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

7. Take Avoidance and 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:

- 7.1. California Tiger Salamander (CTS) Surveys.** The Designated Biologist shall survey the work site no more than 14 days before the Permittee begins Covered Activities

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within 1.3 miles of known CTS breeding habitat. These surveys shall provide 100 percent visual coverage of potential habitat (including burrow and crevice openings) within the Work Area and a 50-foot buffer zone around the Work Area. If the Designated Biologist finds any life stages of CTS (adults, eggs, or larvae) the Designated Biologist or Designated Representative shall immediately contact CDFW. The Designated Biologist shall relocate any adult CTS that is found in accordance with the CDFW-approved California Tiger Salamander Relocation Plan and coordinate with CDFW if CTS eggs or larvae are found. The Designated Biologist shall hold the appropriate State and federal Scientific Collecting Permits (SCP) for amphibians to be authorized to capture and handle CTS. The Designated Biologist may be assisted by approved biologists that do not have an SCP; these biologists shall be identified as Designated Monitors. Permittee shall provide the survey results to CDFW in a written report before starting Covered Activities.

- 7.2.** California Tiger Salamander Relocation Plan. The Designated Biologist shall prepare a CTS relocation plan and submit it to CDFW for approval at least 30 days prior to the beginning of Covered Activities occurring within 1.3 miles of known CTS breeding habitat and before conducting surveys per Condition of Approval California Tiger Salamander Surveys. Covered Activities within these areas may not proceed until the California Tiger Salamander Relocation Plan is approved by CDFW. Permittee shall submit any proposed changes to the California Tiger Salamander Relocation Plan to CDFW in writing and CDFW shall approve proposed changes prior to implementation of any activities pursuant to a modified California Tiger Salamander Relocation Plan.
- 7.3.** California Tiger Salamander in Project Area. If CTS is found by any person in the Project Area before or during Covered Activities, the Permittee shall immediately stop all work that could potentially harm the CTS until the Designated Biologist can relocate the CTS to an active rodent burrow system in accordance with the CDFW-approved California Tiger Salamander Relocation Plan. Designated Monitor(s) are prohibited from capturing and handling CTS unless specifically approved in writing by CDFW and under the direct supervision of the Designated Biologist(s).
- 7.4.** Small Mammal Burrow Surveys and Excavation. During surveys per Condition of Approval California Tiger Salamander Surveys, the Designated Biologist(s) shall flag any small mammal burrows and crevices suitable for CTS occupancy within the Work Area and a 50-foot buffer zone around the Work Area if the burrow/crevice is within 0.25 mile of known or potential CTS breeding habitat. Any small mammal burrows or crevices that cannot be fully avoided by 50 feet regardless of whether the burrow/crevice is in the Work Area or solely within the Work Area's 50-foot buffer zone shall be fully excavated by the Designated Biologist(s) before starting Covered Activities. The Designated Biologist(s) shall relocate any live CTS discovered during burrow excavation in accordance with the CDFW-approved

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California Tiger Salamander Relocation Plan. Designated Monitor(s) are prohibited from capturing and handling CTS unless specifically approved in writing by CDFW and under the direct supervision of the Designated Biologist(s).

- 7.5. California Tiger Salamander Exclusion Fencing.** No later than 48 hours after surveying, flagging, and excavating small mammal burrows/crevices in accordance with Conditions of Approval California Tiger Salamander Surveys and Small Mammal Burrow Surveys and Excavation, Permittee shall install CTS exclusion fencing around the Work Area in upland habitat areas within 1.3 miles of potential or known CTS breeding habitat. Permittee shall maintain the California tiger salamander exclusion fencing throughout all construction activities. CTS exclusion fencing shall be installed under the direct supervision of a Designated Biologist. Permittee shall use wildlife exclusion fencing consisting of a fine (less than 0.4 inch) mesh equipped with one-way exits to avoid entrapment of amphibians inside the fence. Hardware cloth is not permitted. Permittee shall bury fencing to a depth of six inches and fencing shall be a minimum of 3.3 feet tall following installation. The fencing shall include the optional barrier lip designed to prevent species such as California tiger salamander from climbing over. The Permittee shall avoid small mammal burrows to the maximum extent possible during installation of the exclusion fencing. Where burrows cannot be avoided, the Designated Biologist shall excavate them by hand before the fence is installed. The Designated Biologist shall relocate any live CTS discovered during these inspections in accordance with the CDFW-approved California Tiger Salamander Relocation Plan. The Permittee may propose an alternative exclusion fence material and/or installation method for specific locations within the Project Area. Any alternative exclusion fence material and/or installation method shall be submitted to CDFW for written approval and shall be approved prior to its use. Permittee and/or Designated Biologist(s) shall inspect the entire length of the CTS exclusion fence and refuge areas (e.g., cover boards) a minimum of once a week during Covered Activities and during periods of inactivity. If Covered Species are found within the interior fence, the Designated Biologist(s) shall relocate them in accordance with the CDFW-approved California Tiger Salamander Relocation Plan.
- 7.6. Rain Forecast.** The Permittee and Designated Biologist(s) shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 70 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in areas within 1.3 miles of potential or known CTS breeding habitat until no further rain is forecast unless the Work Area has been encircled with CTS exclusion fencing that is in effective condition pursuant to Condition of Approval California Tiger Salamander Exclusion Fencing. In addition, if a 70 percent or greater chance of rainfall is predicted within 72 hours, construction-related traffic moving through areas within 1.3 miles of potential or known CTS breeding habitat but outside of the CTS exclusion fencing (e.g., on roads) shall not occur at night or within two hours of sunrise and sunset unless a Designated Biologist leads the

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traffic by foot; further traffic shall not exceed 10 mph during daylight hours until no further rain is forecast. If Covered Activities must continue when rain is forecast in Work Areas within 1.3 miles from potential or known CTS breeding habitat, a Designated Biologist shall survey the Project construction footprint before construction begins each day that rain is forecast. If a Designated Monitor is used to conduct surveys, a Designated Biologist must remain on site to capture and relocate any CTS that are discovered during the surveys. If rain exceeds ¼ inch during a 24-hour period, Permittee shall cease work until no further rain is forecast.

- 7.7. Night Work.** Permittee shall strictly prohibit all night work in areas within 1.3 miles of potential or known CTS breeding habitat when a 70 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast. This restriction is not applicable for areas within 1.3 miles of potential or known CTS breeding habitat once they have been encircled with CTS exclusion fencing pursuant to ITP Condition of Approval California Tiger Salamander Exclusion Fencing and is also not applicable to construction-related traffic led by a Designated Biologist by foot in accordance with Condition of Approval Rain Forecast.
- 7.8. Soil Stockpiles.** Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential CTS breeding habitat or into any other “Waters of the State”. Permittee shall appropriately protect stockpiles to prevent soil erosion.
- 7.9. Barriers to California Tiger Salamander Movement.** Permittee shall construct roadways within 1.3 miles of known or potential CTS breeding habitat without steep curbs, berms, or dikes, which could prevent CTS from exiting the roadway. If curbs are necessary for safety and/or surface runoff, Permittee shall design and construct them to allow CTS to walk over them. If steep dikes are required, Permittee shall design and construct them to include over-side drains or curb/dike breaks spaced at intervals of 25 feet to allow CTS passage.
- 7.10. Fieldwork Code of Practice.** To ensure that disease is not conveyed between work sites all Designated Biologist(s) and Designated Monitor(s) shall follow the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (Attachment 2). The Designated Biologist(s) and Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.
- 7.11. Open Trenches.** The Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped animals. To prevent inadvertent entrapment of Covered Species or any other animals, the Designated Biologist shall oversee the covering of all excavated, steep-walled holes or trenches more than two feet deep, or of any depth if they

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contain water or other material, with plywood or other barrier materials at the close of each working day such that animals are unable to enter and become entrapped. Alternatively, Permittee shall provide earthen escape ramps of no more than 3:1 slope every 200 feet. Before holes or trenches are filled, the Designated Biologist shall thoroughly inspect them for trapped animals. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist immediately. Project workers and the Designated Biologist shall allow the Covered Species to escape unimpeded if possible. If CTS is discovered in a hole or trench, the Designated Biologist shall relocate CTS as described in the CDFW-approved California Tiger Salamander Relocation Plan, before Covered Activities are allowed to continue. If an injured Covered Species is discovered at any time, the Designated Representative shall contact CDFW's Regional Representative within one working day of the incident pursuant to Condition of Approval Notification of Take.

- 7.12. 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 notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Project Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the CDFW-approved California Tiger Salamander Relocation Plan if applicable.
- 7.13. Materials Inspection.** Workers shall thoroughly inspect all construction pipe, culverts, or similar structures with a diameter of three inches or greater that are stored for one or more overnight periods for Covered Species before the pipe is subsequently moved, buried, or capped. If during inspection a Covered Species is discovered inside a pipe, workers shall notify the Designated Biologist and allow the Covered Species to safely escape that section of pipe before moving and utilizing the pipe.
- 7.14. Raptor Surveys.** The Designated Biologist shall conduct preconstruction surveys during the raptor nesting season (February 15 through September 15), within 0.5 mile of Covered Activities. Raptor surveys will be conducted no more than 10 days prior to the start of Covered Activities. The Designated Biologist or Designated Representative shall provide the survey results, including negative findings, to CDFW in a written report within 30 days after the start of Covered Activities.
- 7.15. Nesting Swainson's Hawk.** If a nesting Swainson's hawk is found within 0.5 mile of the Project Area during Raptor Surveys, or if a historic/potential nest becomes occupied, or a nesting Swainson's hawk is found at any time during Covered Activities, the Designated Biologist shall be present daily for the entire duration of Covered Activities during the nesting season (February 15 through September 15)

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to monitor the behavior of any Swainson's hawk nesting within 500 feet to 0.5 mile of Covered Activities. The Designated Biologist shall have the authority to order the cessation of all activities within 0.5 mile of any Swainson's hawk nest if the birds exhibit distress and/or abnormal nesting behavior (swooping/stooping, excessive vocalization (distress calls), agitation, failure to remain on nest, failure to deliver prey items for an extended time period, etc.) which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Permittee shall not resume Covered Activities until CDFW has been consulted by the Designated Biologist, and both the Designated Biologist and CDFW confirm that the bird's behavior has normalized.

- 7.16. Swainson's Hawk Nest Buffer.** The Permittee and Designated Biologist shall ensure that no Covered Activities occur within 500 feet of an active Swainson's hawk nest during the nesting season (February 15 through September 15).
- 7.17. Tree Removal.** Permittee shall not remove any historic or active Swainson's hawk nest trees during the nesting season (February 15 through September 15). Permittee shall remove a historic or active Swainson's hawk nest tree only between September 16 and February 14 of any year to avoid impacts to nesting Swainson's hawk.
- 7.18. Tree Replacement.** If Covered Activities affecting Swainson's hawk result in the removal of a Swainson's hawk nest tree in the Project Area, Permittee shall plant native species replacement trees at a 4:1 ratio (four trees for each historic and active nest tree removed) on HM lands in close proximity to suitable foraging habitat. Permittee shall prepare a Swainson's Hawk Nest Tree Replacement Plan and submit it to CDFW for review and written approval. The Swainson's Hawk Nest Tree Replacement Plan shall identify replacement tree locations, planting methods, and any site-specific management activities necessary to ensure the performance criteria of this Condition of Approval are achieved. The HM Lands manager shall monitor the tree survival rates and shall report them in the ASR pursuant to the reporting requirements of Condition of Approval Annual Summary Report. Permittee shall ensure that the number of trees required as compensation under this ITP matches the number of healthy and thriving trees at the end of the initial five-years monitoring period.
- 7.19. San Joaquin Kit Fox (SJKF) Survey.** No more than 30 days prior to Permittee beginning Covered Activities, the Designated Biologist shall perform a pre-construction survey for SJKF and dens (potential, known, and natal dens) in the Project Area and a buffer zone of 200 feet beyond the Project Area and construction zone.
- 7.20. San Joaquin Kit Fox Den Monitoring and Excavation.** The Designated Biologist shall monitor all potential, known, and natal SJKF dens (USFWS 2011) identified in the

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Project Area during San Joaquin Kit Fox Survey or previous surveys for a minimum of four (4) consecutive nights using standard methods, including “dusting” the den entrance and apron and other means (wildlife camera) if necessary. Only when the den is determined to be unoccupied after four (4) consecutive nights of monitoring can the den be excavated by the Designated Biologist or individuals under the direct supervision of the Designated Biologist. Potential SJKF dens without any signs of SJKF use or characteristics suggesting it is a SJKF den may be excavated without advance tracking and camera monitoring. Known and natal dens shall not be destroyed until Permittee has installed replacement den(s) per Condition of Approval Replacement San Joaquin Kit Fox Dens. If an individual SJKF does not vacate a den within a reasonable timeframe, Permittee shall consult with CDFW to obtain written guidance prior to proceeding with den destruction. If a SJKF is still present after four (4) or more consecutive days of monitoring, the den may have to be excavated when, in the judgment of the Designated Biologist and in consultation with CDFW, the den is temporarily vacant. The Designated Biologist may excavate the den during the animal's normal foraging activities and after consultation with CDFW. The Designated Biologist shall excavate the den by hand unless soil conditions necessitate the use of excavating equipment; however, Permittee shall consult with CDFW to obtain written approval to use excavating equipment prior to doing so and shall exercise extreme caution. The Designated Biologist shall accomplish the destruction of the den by careful excavation until it is certain that no SJKF are inside. The Designated Biologist shall fully excavate the den, fill it with dirt, and compact it to ensure that SJKF cannot reenter or use the den during the Covered Activities. If at any point during excavation a SJKF is discovered inside the den, the Designated Biologist shall immediately cease the excavation activity and continue monitoring of the den as described above. Destruction of the den may be completed when, in the judgment of the Designated Biologist, the SJKF has escaped from the partially destroyed den. Permittee shall not exclude SJKF from occupied natal dens (den in which SJKF young are reared, typically with two or more openings) during the pupping/rearing season. If a natal den is discovered, Permittee shall not excavate natal dens (occupied or unoccupied) until the pups and adults have vacated the den and then only after written consultation and concurrence from CDFW to do so.

- 7.21. Replacement San Joaquin Kit Fox Dens.** Permittee shall replace each known and natal SJKF den that must be destroyed per Condition of Approval San Joaquin Kit Fox Den Monitoring and Excavation with an artificial den to compensate for the loss of important shelter used for protection, reproduction, and escape from predators. The Designated Biologist shall determine the appropriate design and placement of replacement dens through consultation with CDFW on a site-specific basis. Permittee shall install artificial den(s) before starting Covered Activities and before destroying/excavating known and natal SJKF dens per Condition of Approval San Joaquin Kit Fox Den Monitoring and Excavation.

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- 7.22. Covered Species Injury.** If a Covered Species is injured as a result of Covered 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. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report. Notification shall include the date, time, location (GPS coordinates) and circumstances of the incident, and the name of the facility where the animal was taken.
- 7.23. Salvage Plan.** Permittee shall develop a salvage plan for succulent owls' clover, San Joaquin Valley Orcutt grass, and Colusa grass and submit it to CDFW for approval at least 30 days prior to beginning Covered Activities within 1,000 feet of known vernal pools, swales, or other wetland habitat. Covered Activities within these areas may not proceed until the Salvage Plan is approved by CDFW.
- 7.24. Botanical Surveys.** In areas with intact vernal pool, swale, or wetland habitat the Designated Biologist shall conduct botanical surveys prior to the Permittee beginning Covered Activities. The botanical surveys shall be floristic in nature, cover the entire area of direct and indirect effects, and should be timed appropriately to detect all species which may occur within the Project Area. The Designated Biologist or Designated Representative shall provide the survey results to CDFW in a written report within 30 days after the start of Covered Activities within areas with intact vernal pool, swale, or wetland habitat.
- 7.25. Placement of Exclusion Fencing.** Temporary fencing that delineates the Project Area as required by Conditions of Approval Delineation of Work Area Boundaries and Delineation of Habitat shall be placed by the Permittee such that it excludes the greatest number of Covered Species possible. Exact fencing locations shall be determined by the Designated Biologist.
- 7.26. Plant Salvage and Relocation.** If any of the plant Covered Species are found in the Project Area, the Designated Biologist shall salvage and transplant them in accordance with the CDFW-approved Salvage Plan.
- 7.27. Notification of Plant Damage.** If a plant Covered Species is destroyed or damaged as a result of Project-related activities outside of the identified Project Area, or because avoidance and minimization measures included in this ITP were not followed, the Permittee shall notify CDFW of the incident immediately, including the extent to which damage to the Covered Species occurred via telephone and email, followed by a written incident report submitted to CDFW. Notification shall include the date, time, location (GPS coordinates), and circumstances of the incident.

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7.28. Inoculum Collection. Permittee shall not collect inoculum from greater than 10 percent of the area of each donor pool. Permittee shall not collect inoculum from vernal pools within the designated inoculum collection area where CESA-listed (threatened, endangered, or rare) or invasive plants occur. Permittee shall provide a written report to CDFW, including maps, documenting the vernal pools used for inoculum collection.

7.29. Wetland Restoration at YLCA. Permittee shall notify CDFW in writing before wetland restoration work begins at YLCA and notify CDFW when wetland restoration work is completed at YLCA. Wetland restoration for the Permittee shall be limited to the areas designated in Figure 11. An alternative wetland restoration area for the Permittee may be designated with written approval from CDFW. Wetland restoration work for the Project shall not occur when wetland restoration activities occur for any other project or activity at YLCA.

8. Habitat Management Land Acquisition:

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

To meet this requirement, the Permittee shall provide for the permanent protection and management of **6,286 acres** of HM Lands by recording a conservation easement, selecting a land manager, and funding the long-term management of the HM Lands.

8.1. There are two types of conservation lands associated with the Project: lands owned in fee title by the Virginia Smith Trust, the Yosemite Lake Vernal Pool, LLC, the UC, and The Nature Conservancy and which are remote or located immediately adjacent to the campus (i.e.: Tier 1 properties – Yosemite Lake Conservation Area (YLCA), Virginia Smith Trust, Campus Natural Reserve, Myers Easterly, and Cyril Smith Trust), and other lands in the region set aside for resource conservation and held under easement (i.e.: Tier 2 properties – the Robinson, Chance, Carlson, Nelson, and Cunningham properties). Permittee shall permanently preserve 6,286 acres of Tier 1 HM lands which are currently owned in fee title by the UC, The Nature Conservancy or the Yosemite Lake Vernal Pool, LLC and located in eastern Merced County (Figure 2 and Figure 10). The Cyril Smith Trust is not included in the acreage of HM Lands because it is not owned in fee title by the Permittee. The Tier 1 lands to be used as HM Lands for the Project include:

8.1.1. The 5,130-acre Virginia Smith Trust Preserve (VST);

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- 8.1.2. The 1,339-acre Campus Natural Reserve (CNR);
- 8.1.3. The 92-acre Myers Easterly; and
- 8.1.4. The 75 acres of the Yosemite Lake Vernal Pool, LLC’s YLCA, 50 acres of which is suitable upland habitat for Covered Species.

8.2. The HM lands consist of high-quality habitat for the Covered Species as determined through extensive biological resource surveys spanning multiple years. Based upon these surveys, Table 2 contains the acreage of habitat on the HM lands known to be occupied by Covered Species:

Table 2. Acreage of Habitat on HM Lands Known to be Occupied by Covered Species

Species	Habitat Type	Number of Acres			
		VST	CNR	Myers Easterly	YLCA
1. California tiger salamander	Non-native grassland (upland refugia)	5,098	1,270	94	50
2. Swainson’s hawk	Non-native grassland (foraging)	5,098	1,270	94	50
3. San Joaquin kit fox	Non-native grassland	5,048	1,181	48	50
4. Succulent owl’s clover	Vernal pool, wetland	194	111	0	0
5. San Joaquin Valley Orcutt grass	Vernal pool, wetland	0	16	0	0
6. Colusa grass	Vernal pool, wetland	0	14	0	0

8.3. As part of this condition, Permittee shall:

- 8.3.1. Convey a conservation easement to CDFW over the VST, CNR, YLCA, and Meyers Easterly HM lands under terms approved by CDFW within 18 months of execution of this ITP. Alternatively, the transfer may be to a CDFW-approved non-profit organization qualified pursuant to California Government Code section 65965, with CDFW named as a third-party easement beneficiary.
- 8.3.2. Provide a recent preliminary title report, initial hazardous materials survey report, and other documents that may be necessary for the conservation easement (see Attachment 3). All documents are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.

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- 8.3.3. Manage the VST, CNR, and Meyers Easterly in accordance with the *Management Plan for Conservation Lands and the Adjacent Campus Buildout Lands for the University of California, Merced* (September 2008) and incorporate the plan by reference into the conservation easements. Similarly, manage the YLCA acreage in accordance with a long-term management plan to be prepared by as part of the Conditions of Approval for ITP No. 2081-2016-025-04 and approved by CDFW and incorporate the plan by reference into the conservation easement. In addition, Permittee shall implement the Take Avoidance and Minimization Measures required by this ITP when conducting biological monitoring, infrastructure maintenance or improvement, and management activities.
- 8.3.4. Permittee may select the conservation easement grantee, land owner, or other party as the land manager. Documents related to land management shall identify the land manager. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change.
- 8.3.5. Reimburse CDFW for reasonable expenses incurred during title and documentation review, expenses incurred from other State agency reviews, and overhead related to transfer of HM lands to CDFW. CDFW estimates that this Project will create an additional cost to CDFW of no more than \$3,000 for every fee title deed or easement processed.

9. Performance Security:

- 9.1. Sung Mo “Steve” Kang, UC Merced Chancellor, has submitted a letter dated January 26, 2011 (Attachment 4) confirming that the William and Flora Hewlett Foundation (Hewlett Foundation) has already provided \$2 million for the long-term management of the HM lands. This \$2 million will continue to be managed through the UC General Endowment Pool and it is estimated that it will provide \$80,000 per year of interest income in perpetuity. This interest income shall be available for the operation, management and protection of HM lands, including reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action designed to protect or improve the habitat values of the HM lands, in accordance with the *Management Plan for Conservation Lands and the Adjacent Campus Buildout Lands for the University of California, Merced* (September 2008). Take Avoidance and Minimization Measures required by this ITP shall also be implemented when conducting biological monitoring, infrastructure maintenance or improvement, and management activities.
- 9.2. Permittee shall provide CDFW with the following:
 - a) Within three (3) months of executing this Amended ITP, Permittee shall provide CDFW a draft Memorandum of Understanding (MOU) between the UC and

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CDFW outlining the conditions under which the UC could hold endowment monies provided for the long-term management of the HM lands (Attachment 4). Endowment monies would be held in accordance with a MOU approved by CDFW.

- b) The MOU must be finalized within six (6) months of executing this Amended ITP, except that this period may be extended if CDFW has approved a final draft MOU, and requires additional time for its internal processing. Absent finalization of this MOU within six (6) months of executing this Amended ITP, \$2 million shall be submitted to CDFW, where it shall be deposited in a special deposit account established pursuant to Fish and Game Code section 13014. Alternatively, the \$2 million shall be provided to the National Fish and Wildlife Foundation (NFWF). CDFW may pool the endowment with other endowments for the operation, management and protection of HM lands for local populations of the Covered Species. The land manager may be reimbursed for actual costs associated with HM land management (in accordance with the *Management Plan for Conservation Lands and the Adjacent Campus Buildout Lands for the University of California, Merced* (September 2008)), for up to the amount generated annually.

XI. Amendment:

This ITP may be amended as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable law. This ITP may be amended without the concurrence of the Permittee as required by law, including if CDFW determines that continued implementation of the Project as authorized under this ITP would jeopardize the continued existence of the Covered Species or where Project changes or changed biological conditions necessitate an ITP amendment to ensure that all Project-related impacts of the taking to the Covered Species are minimized and fully mitigated.

XII. Stop-Work Order:

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

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applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

XIII. Liability:

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

XIV. Compliance with Other Laws:

This ITP contains CDFW's requirements for 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 State, federal, and local laws.

XV. 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 2081-2009-010-04 in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Julie A. Vance, Regional Manager
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
R4CESA@wildlife.ca.gov

and a copy to:

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

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

Ruby Kwan
California Department of Fish and Wildlife
20 Lower Ragsdale Drive, Suite 100
Monterey, California 93940
(805) 748-3624
Ruby.Kwan@wildlife.ca.gov

XVI. Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agencies, the Regents of the University of California (UC) and the Merced County Planning and Community Development (County) (See generally Pub. Resources Code, §§ 21067, 21069.) The UC's prior environmental review of the Project is set forth in the UC Merced and University Community Project Environmental Impact Report (EIR) (SCH No.: 2008041009), dated November 7, 2008, that the UC certified for the UC Merced Campus and Community North Project on March 19, 2009, and the UC Merced 2020 LRDP Project Subsequent EIR (SEIR) (SCH No.: 2018041010), dated December 20, 2019, that the UC certified for the 2020 LRDP Project on March 19, 2020. In addition, environmental review of the Permittee's required off-site wetland restoration work at the Yosemite Lake Conservation Area is set forth in the Yosemite Lakes Estates General Plan Amendment EIR (SCH No.: 1999011011), that the County certified for the Yosemite Lake Estates General Plan Amendment on March 27, 2004. At the time the UC and County certified their environmental documents and approved the Project, the lead agencies also adopted all various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's CEQA findings for this ITP and Project, which are available as a separate document, provide evidence of CDFW's consideration of the UC's and County's environmental documents for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

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XVII. Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, UC Merced and University Community Project EIR, UC Merced 2020 LRDP SEIR, Yosemite Lakes Estates General Plan Amendment EIR, 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 of the 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) Monthly Compliance Reports; (2) establishment of avoidance zones; (3) worker education; and 4) permanent habitat protection. 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. This determination was based in part on the impact analysis contained in the *Biological Assessment CWA Section 404 Permit Applications for UC Merced Campus Project and County of Merced Infrastructure in Support of UC Merced Project* (February, 2002, see Chapter IX), the *Supplement to the Biological Assessment for the UC Merced Campus Project* (July 2002, see Section 5), the *2008 Supplement to the Biological Assessment for the University of California, Merced Campus and University Community North* (September 2008, see Chapter 7), the *UC Merced and University Community Project Final Environmental Impact Statement/Environmental Impact Report*, SCH No. 2008041009 (March 2009), the *UC Merced 2020 Long Range Development Plan (LRDP) Project Subsequent Environmental Impact Report*, SCH No. 2018041010 (March 2020), the conservation approach and mitigation strategy contained in the *Formal Section 7 Consultation on the University of California, Merced Campus and Infrastructure Project (199900203), Merced County, California* (reference #1-1-02-F-0107), and the *Final Conservation Strategy for the UC Merced Project* (October 2008, see page 1-7 and Chapters 5, 6, and 8), the latter of which was developed with significant CDFW input. Based on the above referenced material, CDFW has determined that the protection and management in perpetuity of 6,561 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;

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- (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. This determination is based on the information contained in the *Final Conservation Strategy for the UC Merced Project* (October 2008) and the *Formal Section 7 Consultation on the University of California, Merced Campus and Infrastructure Project (199900203), Merced County, California* (reference #1-1-02-F-0107), both of which describe the Covered Species habitat and resources present on the Project Site and HM lands. The ability for the HM lands to be managed in a way that sufficiently offsets Project-related take is based on information contained in the *Management Plan for Conservation Lands and the Adjacent Campus Buildout Lands for the University of California, Merced* (September 2008).
- (4) The measures required by this ITP maintain Permittee’s objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, such as the *Final Conservation Strategy for the UC Merced Project* (October 2008) which was made available to the general public as an Appendix to *the UC Merced and University Community Project Draft Environmental Impact Statement/Environmental Impact Report* (November 2008). 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.

XVIII. Attachments:

- FIGURE 1 Project Location
- FIGURE 2 Conservation Lands Associated with the UC Merced Project
- FIGURE 3 UC Merced Campus and University Community – Project Lands
- FIGURE 4 UC Merced Proposed Action and University’s Proposed Project

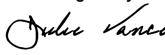
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FIGURE 4a	Horizon Year 2030 Circulation Plan
FIGURE 4b	UC Merced 2020 Long Range Development Plan Land Use Designation and Acreages
FIGURE 4c	Campus Parkway Work Area
FIGURE 5	Vernal Pools, Swales, and Clay Playas in the UC Merced Project Area
FIGURE 6	Distribution of California Tiger Salamander Observations in the UC Merced Project Area
FIGURE 7	Succulent Owl's-Clover in the UC Merced Project Area
FIGURE 8	Colusa Grass in the UC Merced Project Area
FIGURE 9	San Joaquin Valley Orcutt Grass in the UC Merced Project Area
FIGURE 10	Yosemite Lake Conservation Area
FIGURE 11	Yosemite Lake Conservation Area – Wetland Restoration Areas
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice
ATTACHMENT 3	Habitat Management Lands Checklist
ATTACHMENT 4	Hewlett Foundation Confirmation Letter
ATTACHMENT 5	Biologist Resume Form
ATTACHMENT 6	Amendment No. 4 with Track Changes

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON

12/9/2025

DocuSigned by:

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Julie A. Vance, Regional Manager
Central Region

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UNIVERSITY OF CALIFORNIA, MERCED CAMPUS AND COMMUNITY NORTH PROJECT

ACKNOWLEDGEMENT AND DISCLAIMER

This Amended ITP is effective as of the date signed by CDFW above. This Amended ITP does not need to be acknowledged by the signatures of the Permittees for this Amended ITP to be effective. At the request of the Permittees, the Acknowledgement below is provided so that the Permittees can acknowledge to each other that the undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of the original ITP and this Amended ITP, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP as amended.

Regents of the University of California

By (Signature): _____ Date: _____

Printed Name: _____ Title: _____

Virginia Smith Trust

By (Signature): _____ Date: _____

Printed Name: _____ Title: _____

County of Merced

By (Signature): _____ Date: _____

Printed Name: _____ Title: _____

**CESA Incidental Take Permit No. 2081-2009-010-04
Amendment No. 4
University of California, Merced
Campus and Community North Project**

Figures 1 through 11

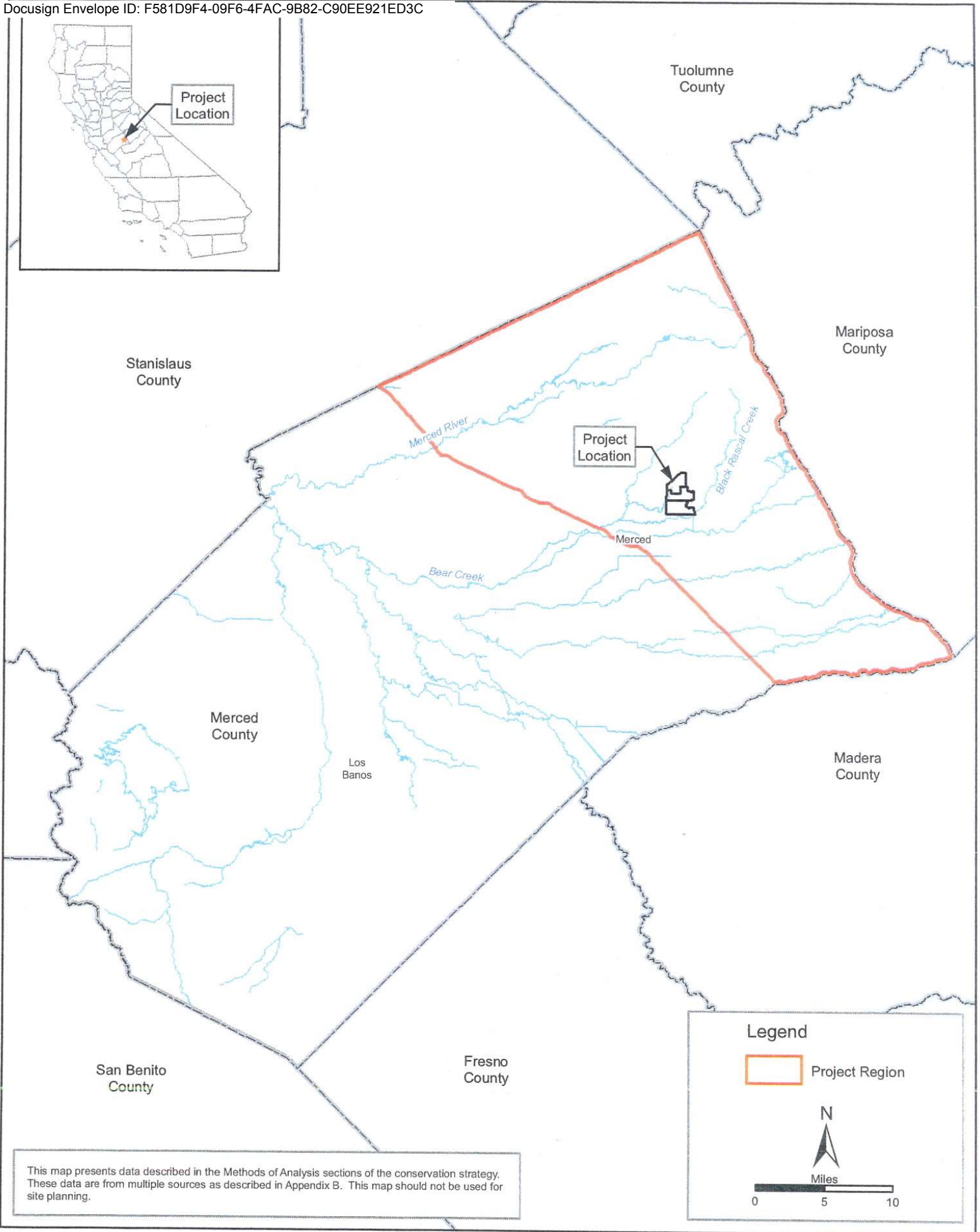
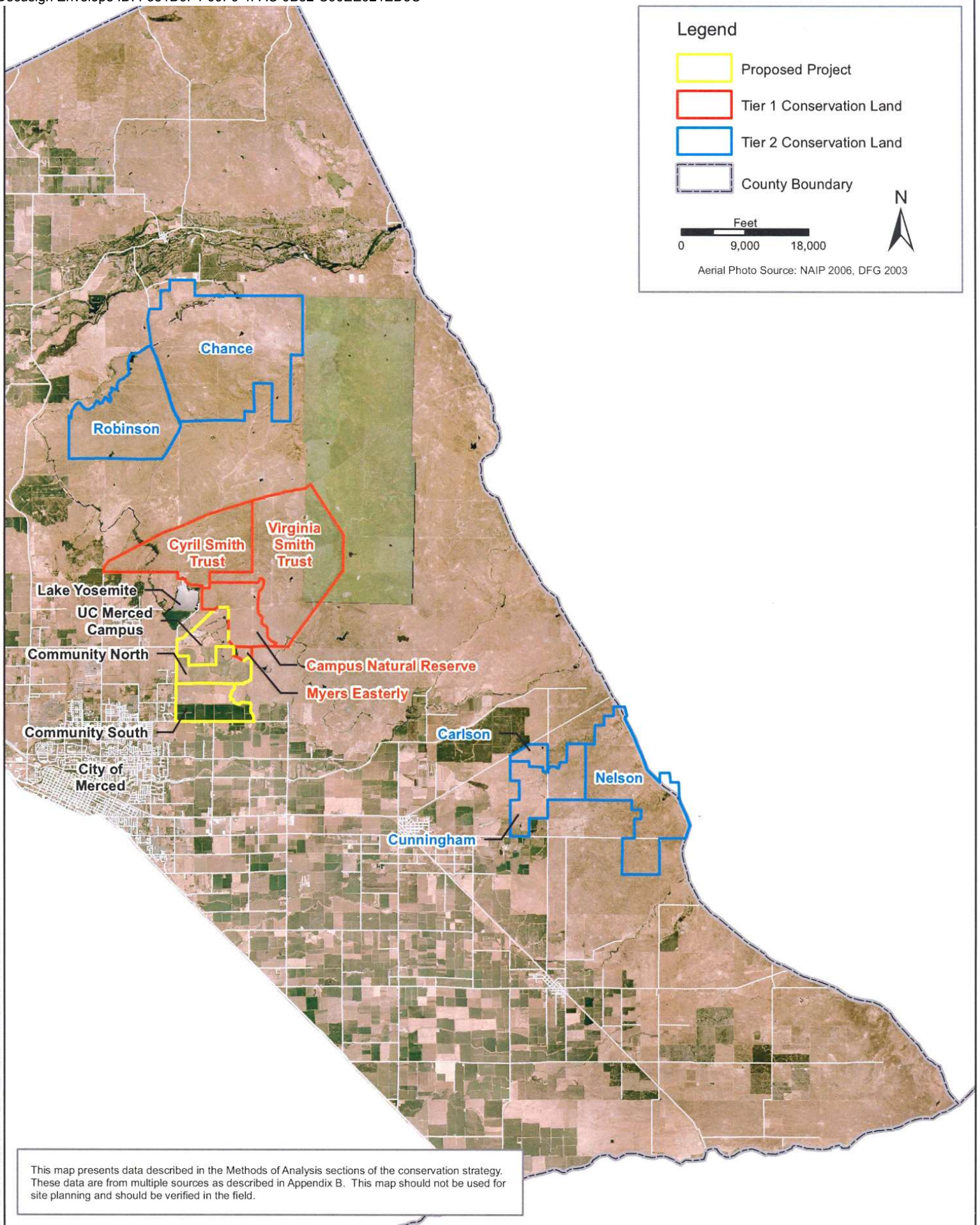


Figure 1
Project Location



This map presents data described in the Methods of Analysis sections of the conservation strategy. These data are from multiple sources as described in Appendix B. This map should not be used for site planning and should be verified in the field.

Figure 2
Conservation Lands Associated with the UC Merced Project

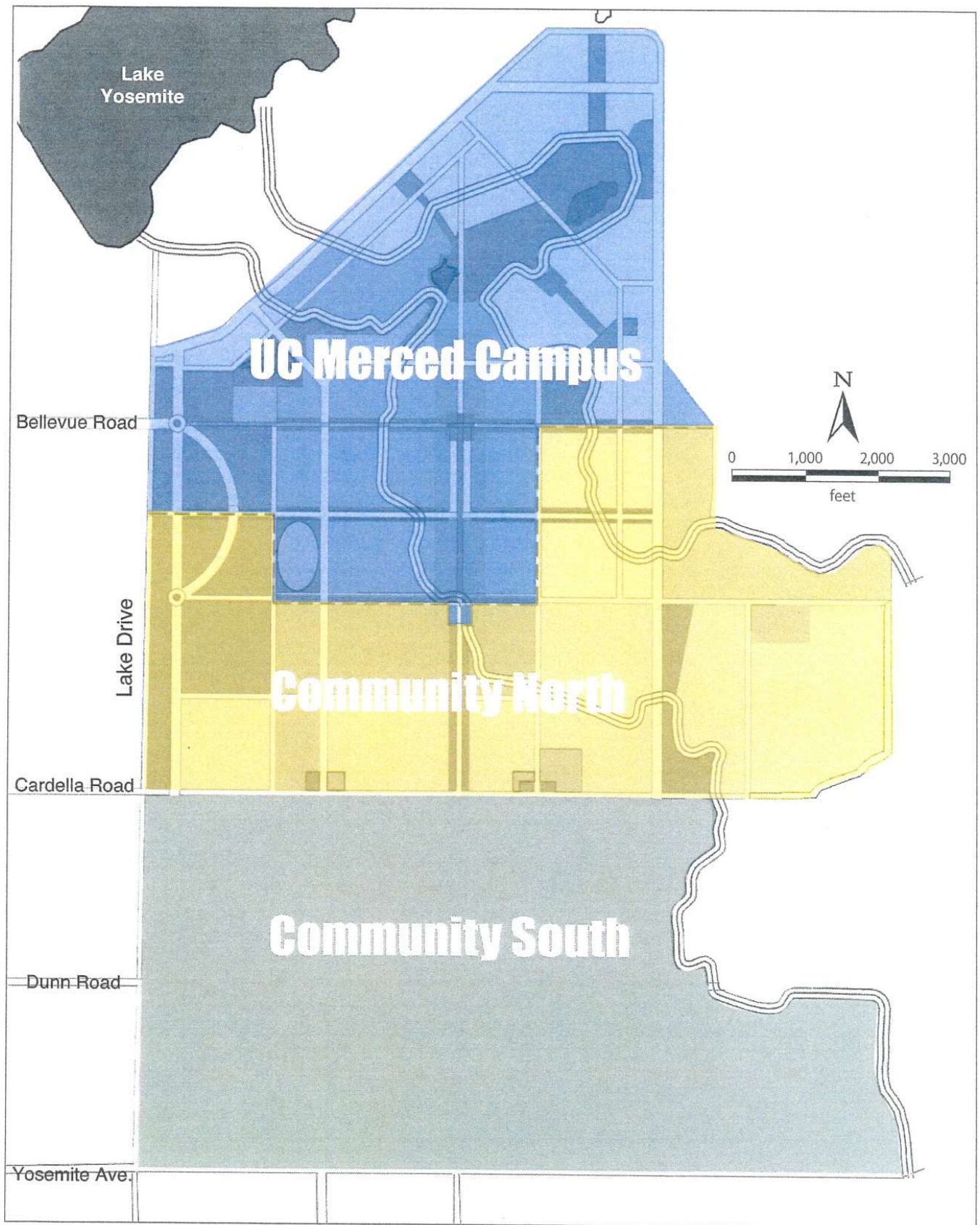
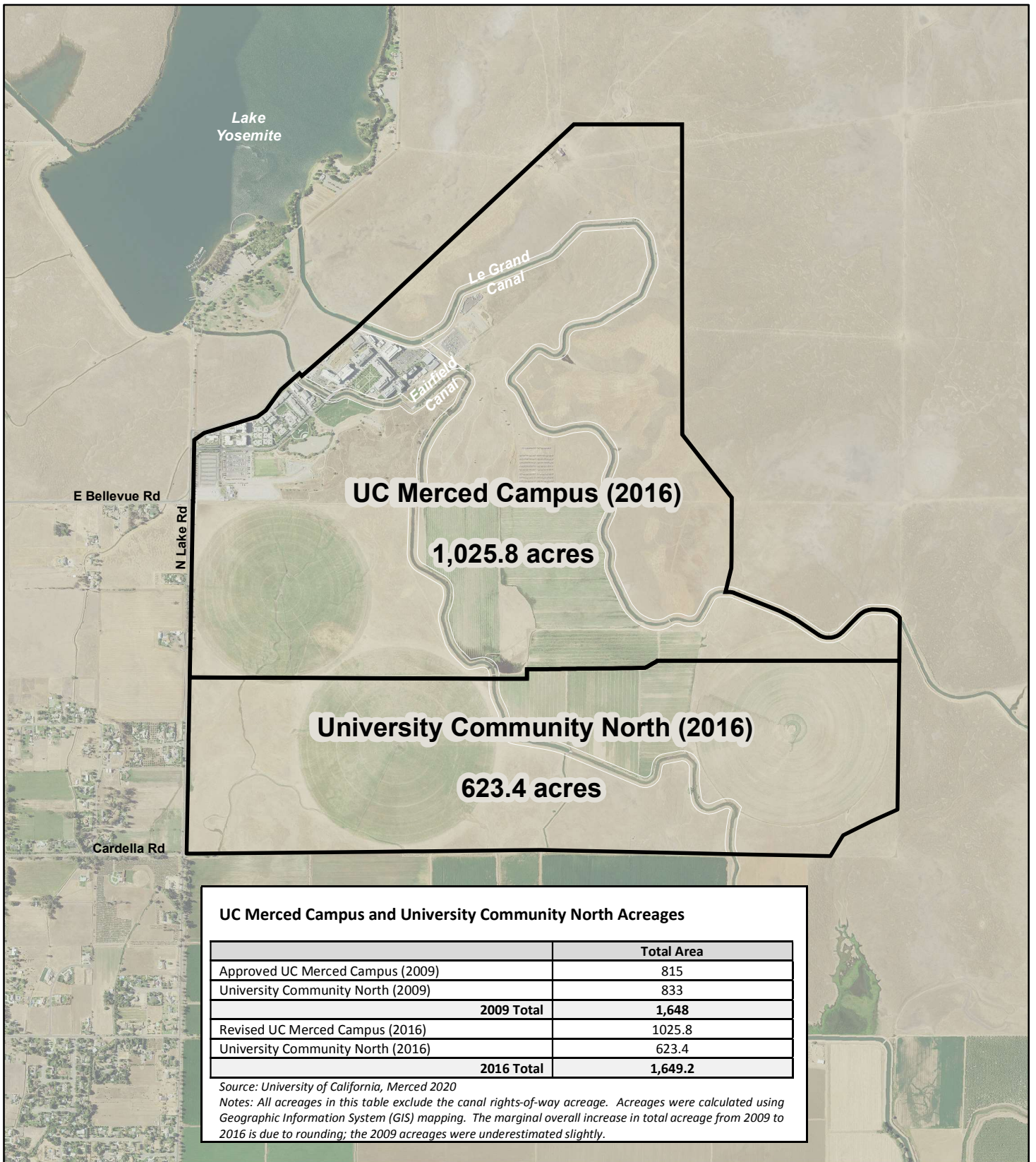


Figure 3
UC Merced Campus and University Community
Project Lands



UNIVERSITY OF CALIFORNIA
MERCED

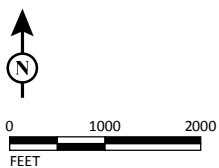


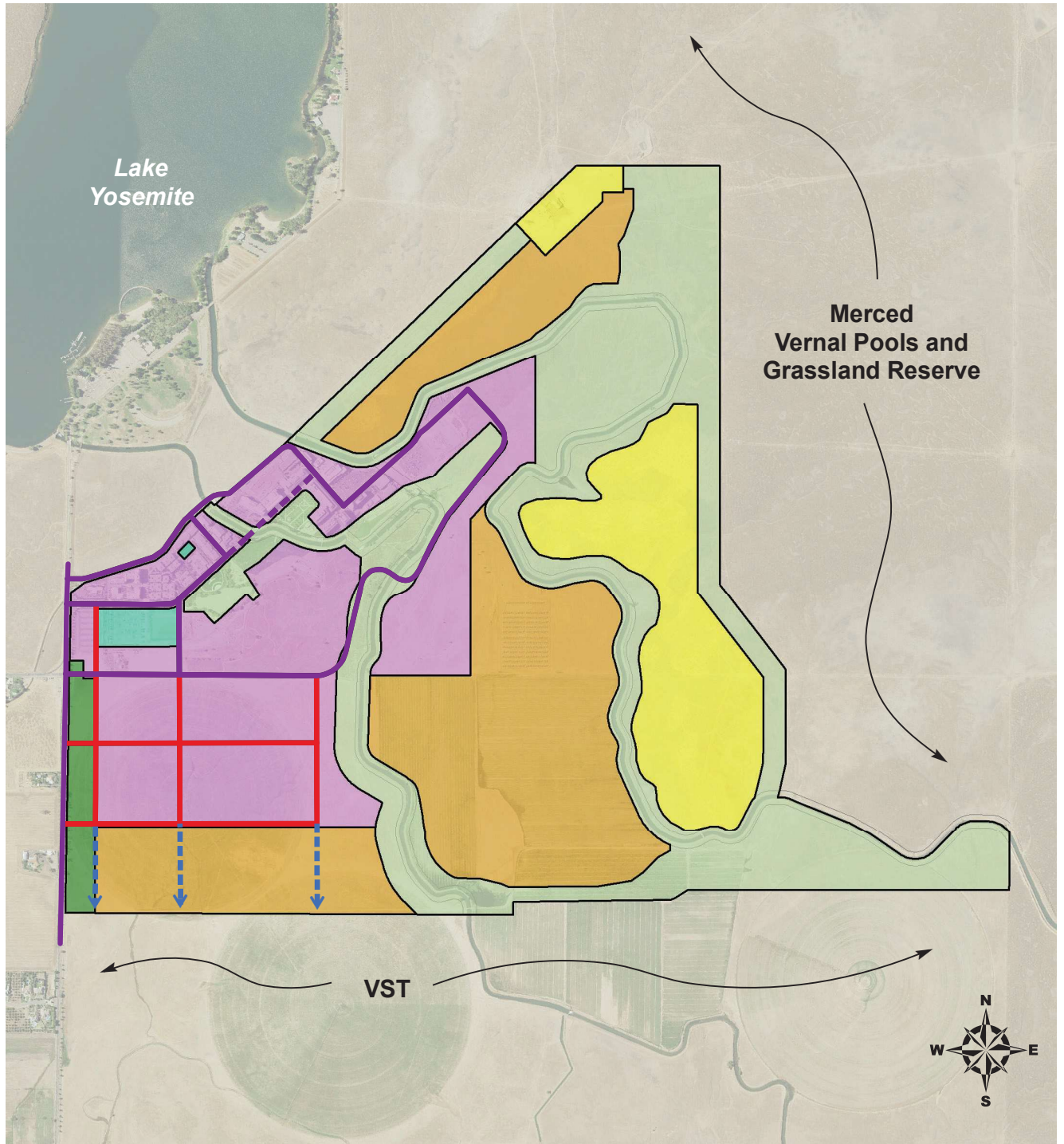
Figure 4
 UCM Proposed Action and University's Proposed Project

2020

Incidental Take Permit
 (ITP No. 2081-2009-010-04)

SOURCE: Golden Valley Eng. (03/2016); CTA Eng. and Surv. (03/2015); USDA NAIP Imagery (2014).

I:\ISC1501_GIS\GIS\Maps\Departments\OPB\2020\Environmental Impacts\ITP 2020\New ITP.mxd (3/13/2020)



- Existing Community Collector
- - - Existing Managed Access
- 2030 Community Collector
- - -> Potential Road Connection to VST.
Actual Alignment to be Determined.

SOURCE: University of California Merced, 2019

Figure 4a

Horizon Year 2030 Circulation Plan

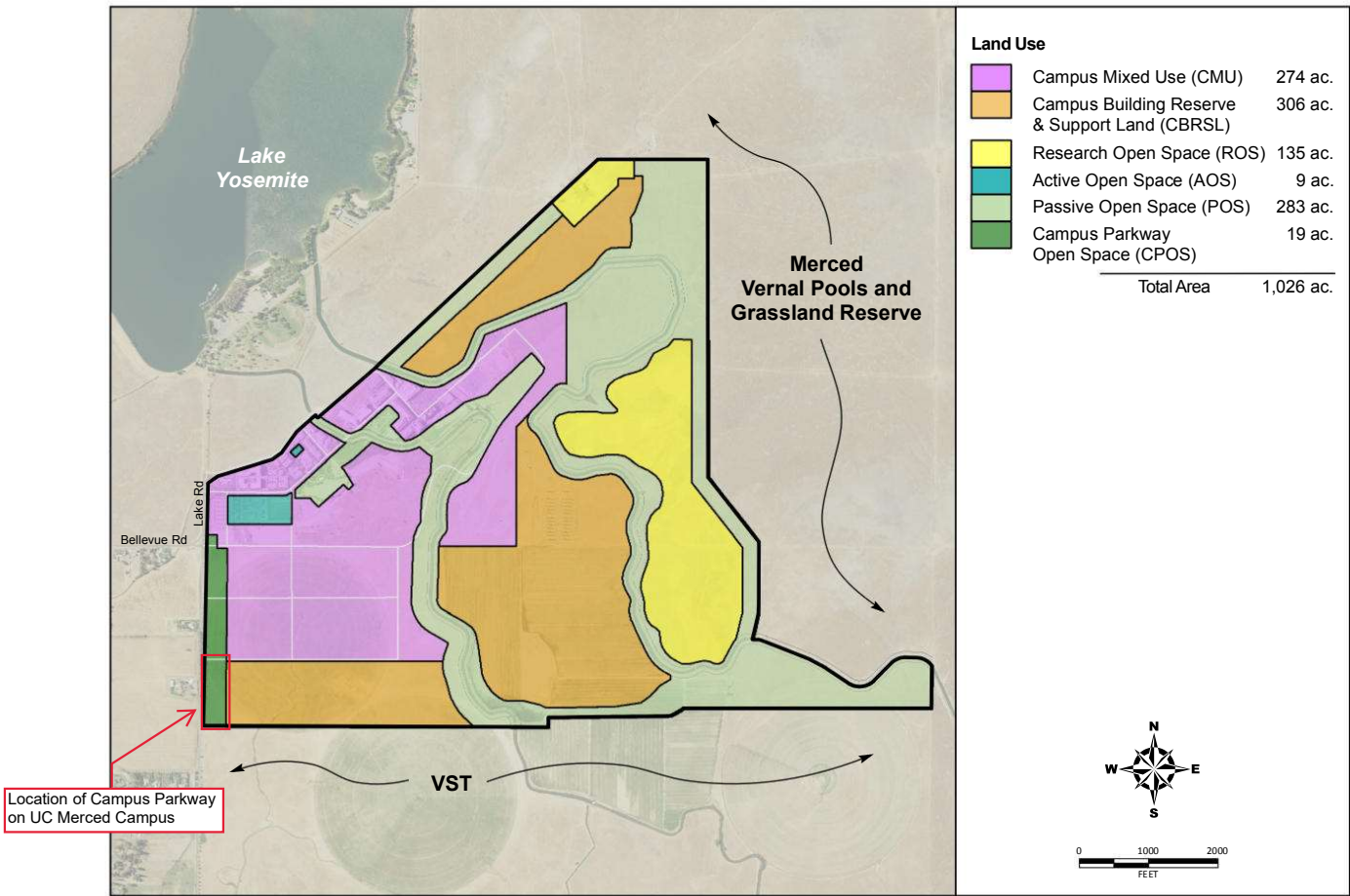


FIGURE 4b
2020 Long-Range Development Plan Land Use Diagram

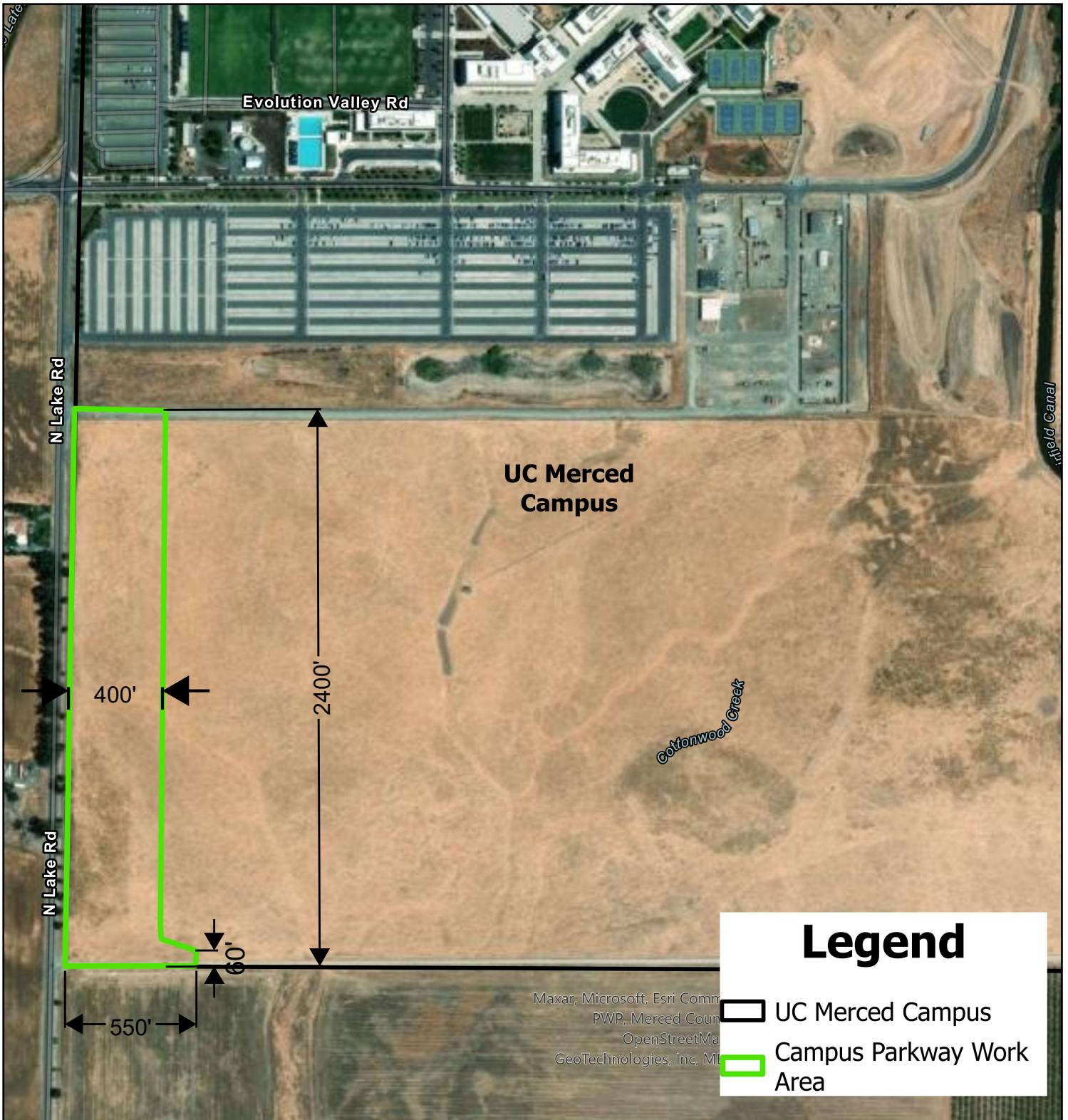
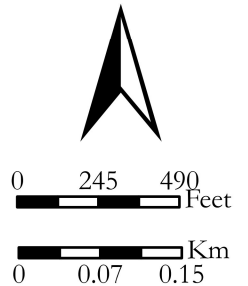


Figure 4c Campus Parkway Work Area

*Dimensions are approximate

Coordinate System: WGS 1984 Web Mercator Auxiliary Sphere

This map is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes.



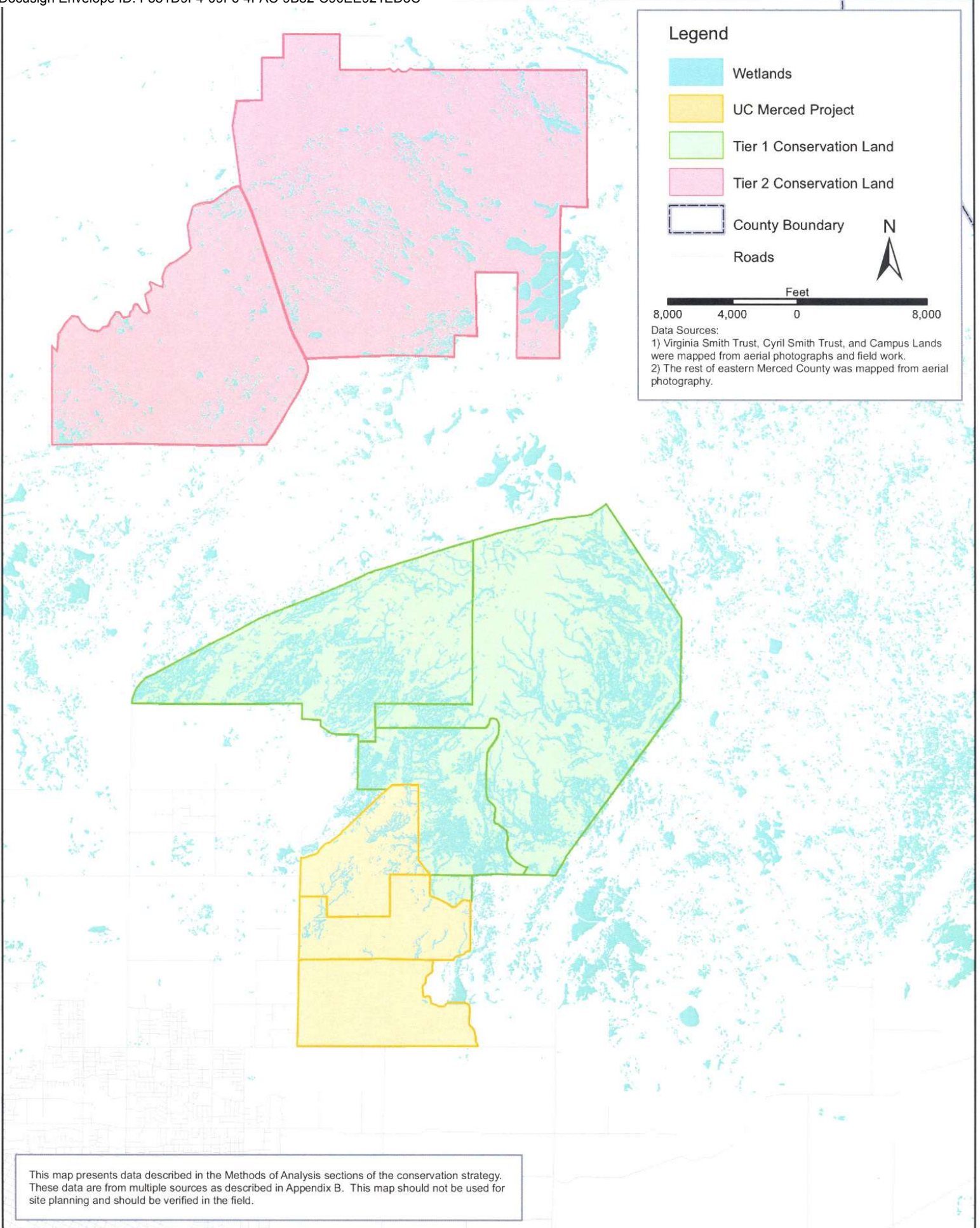


Figure 5
Vernal Pools, Swales, and Clay Playas in the UC Merced Project Area

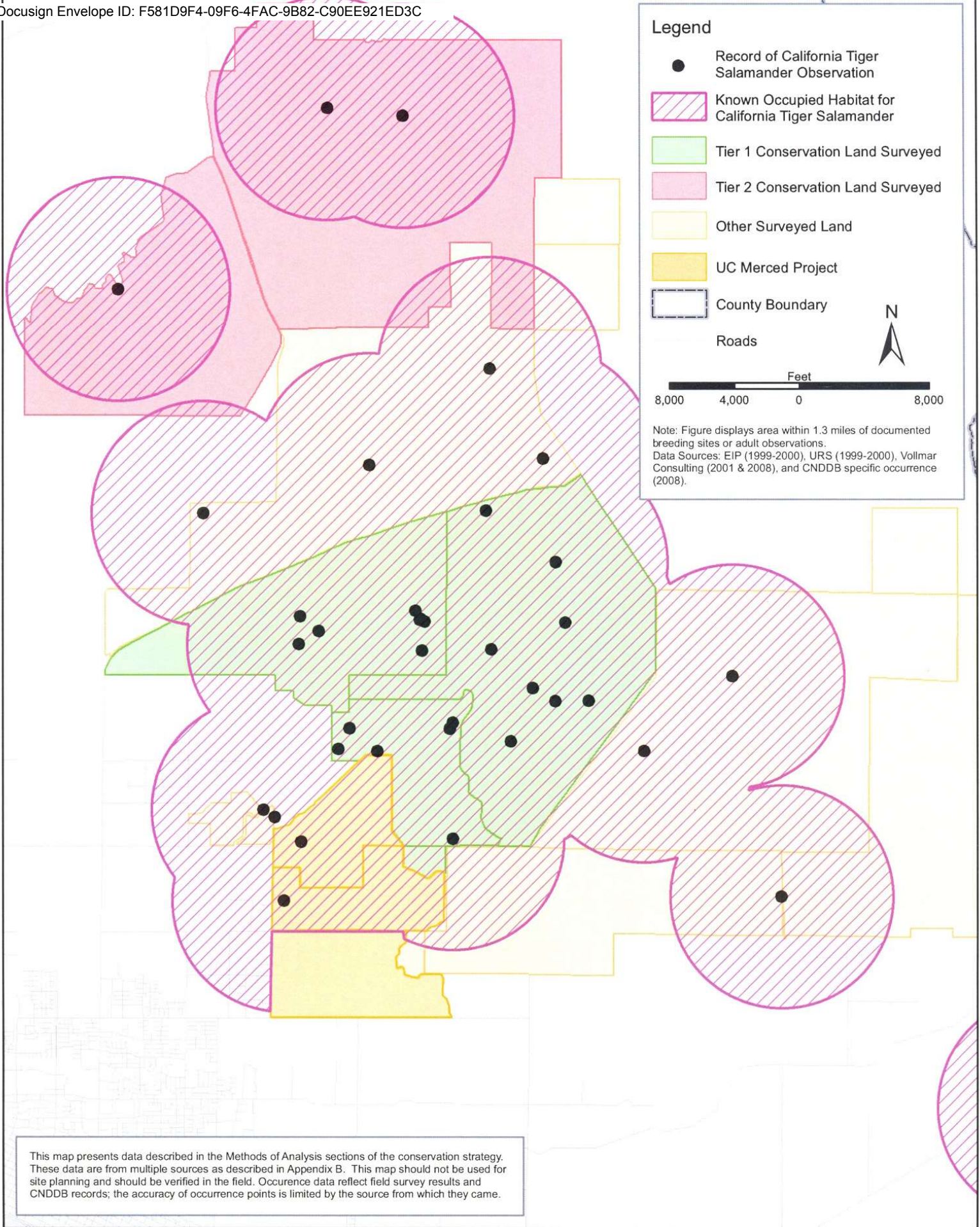


Figure 6
Distribution of California Tiger Salamander Observations
in the UC Merced Project Area

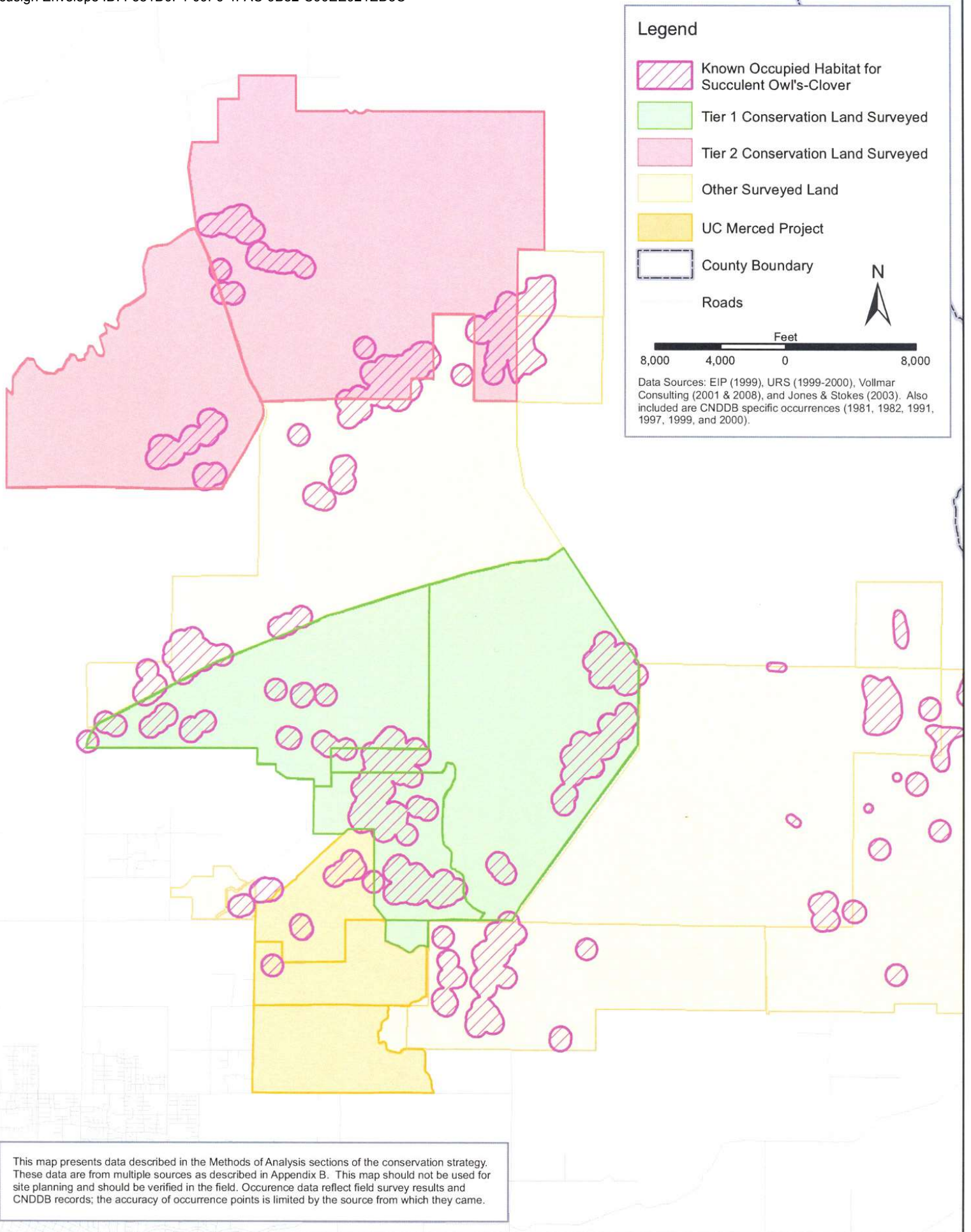
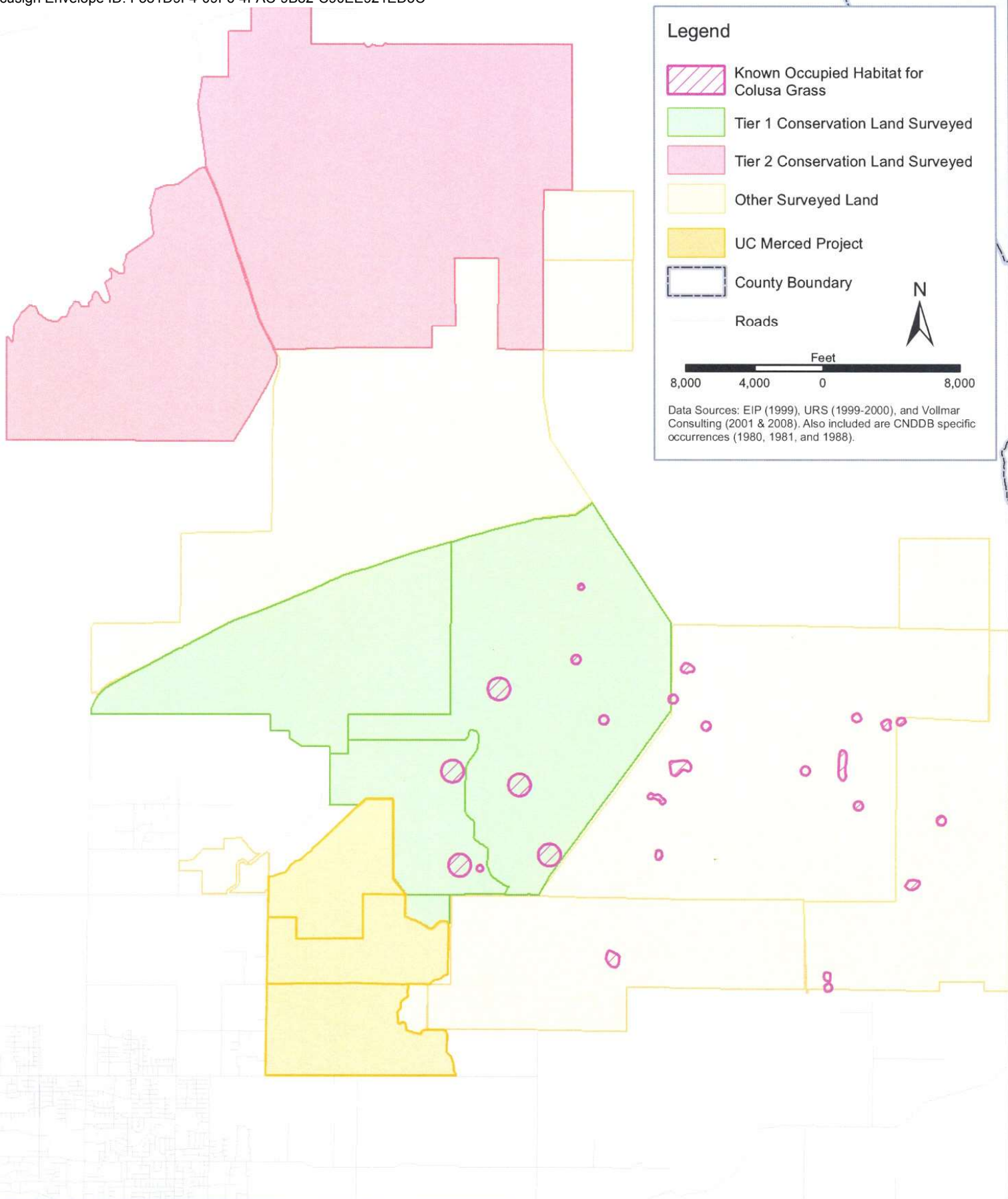


Figure 7
Succulent Owl's-Clover in the UC Merced Project Area



Legend

- Known Occupied Habitat for Colusa Grass
- Tier 1 Conservation Land Surveyed
- Tier 2 Conservation Land Surveyed
- Other Surveyed Land
- UC Merced Project
- County Boundary
- Roads

Feet
8,000 4,000 0 8,000

Data Sources: EIP (1999), URS (1999-2000), and Vollmar Consulting (2001 & 2008). Also included are CNDDDB specific occurrences (1980, 1981, and 1988).

This map presents data described in the Methods of Analysis sections of the conservation strategy. These data are from multiple sources as described in Appendix B. This map should not be used for site planning and should be verified in the field. Occurrence data reflect field survey results and CNDDDB records; the accuracy of occurrence points is limited by the source from which they came.

Figure 8
Colusa Grass in the UC Merced Project Area

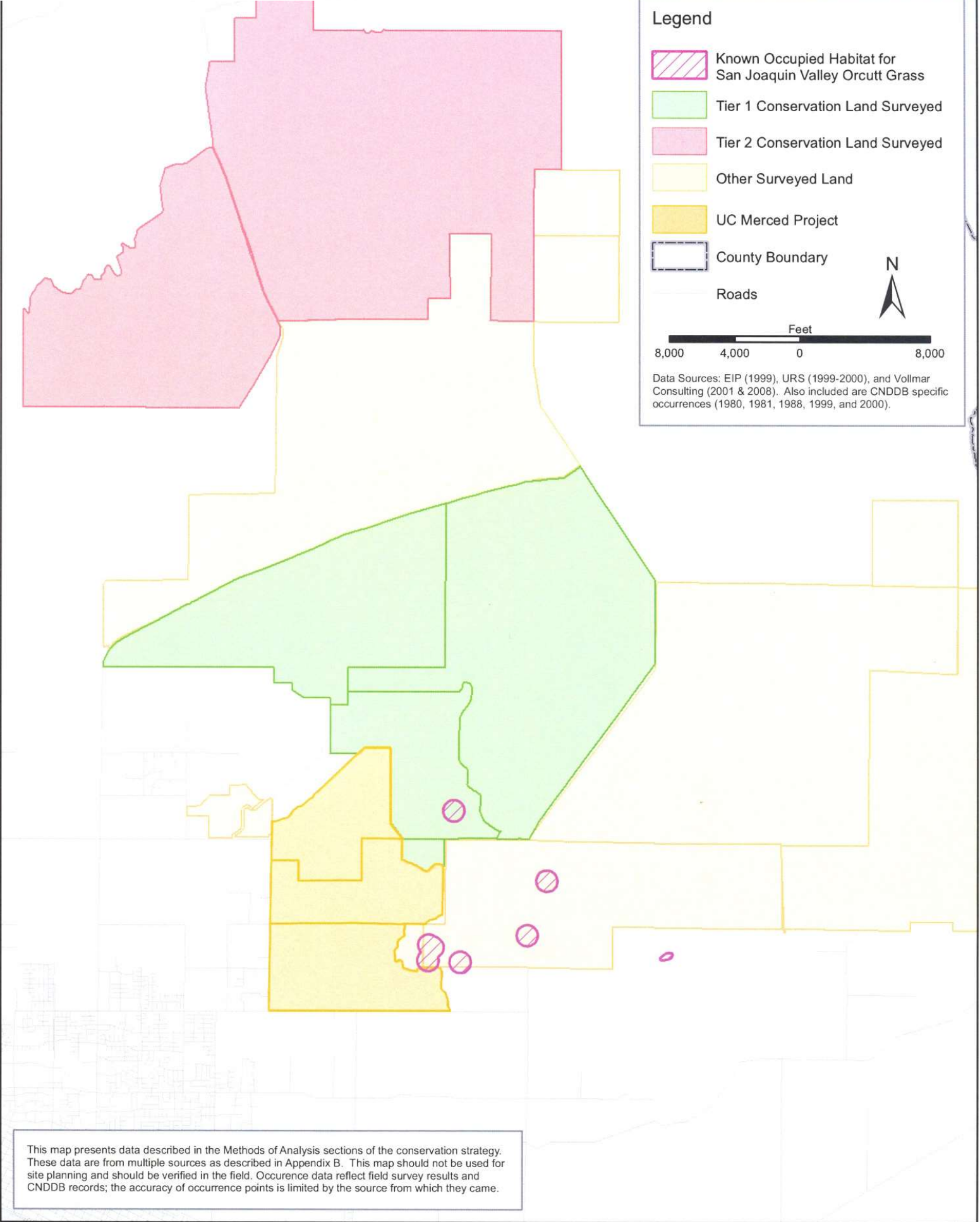
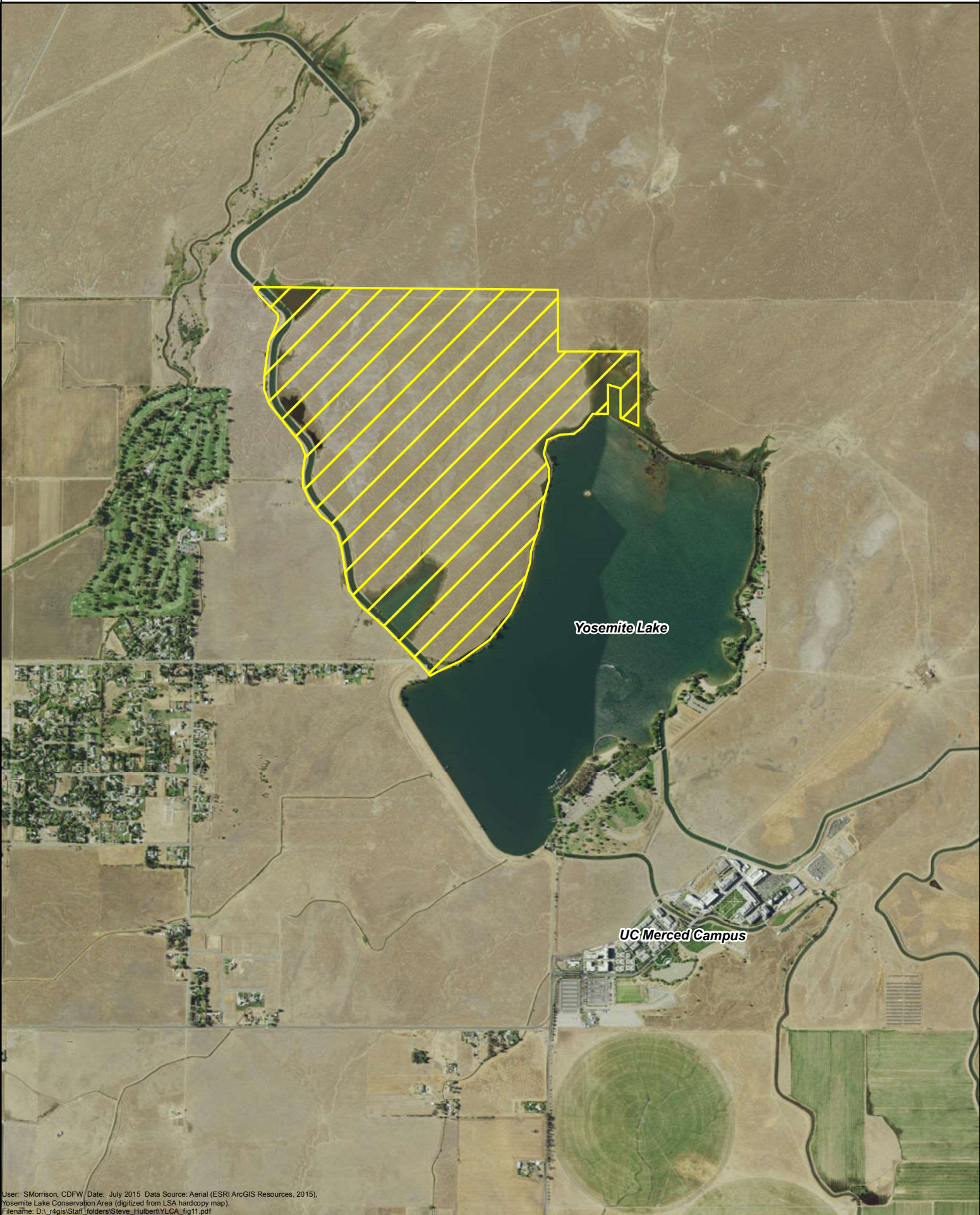


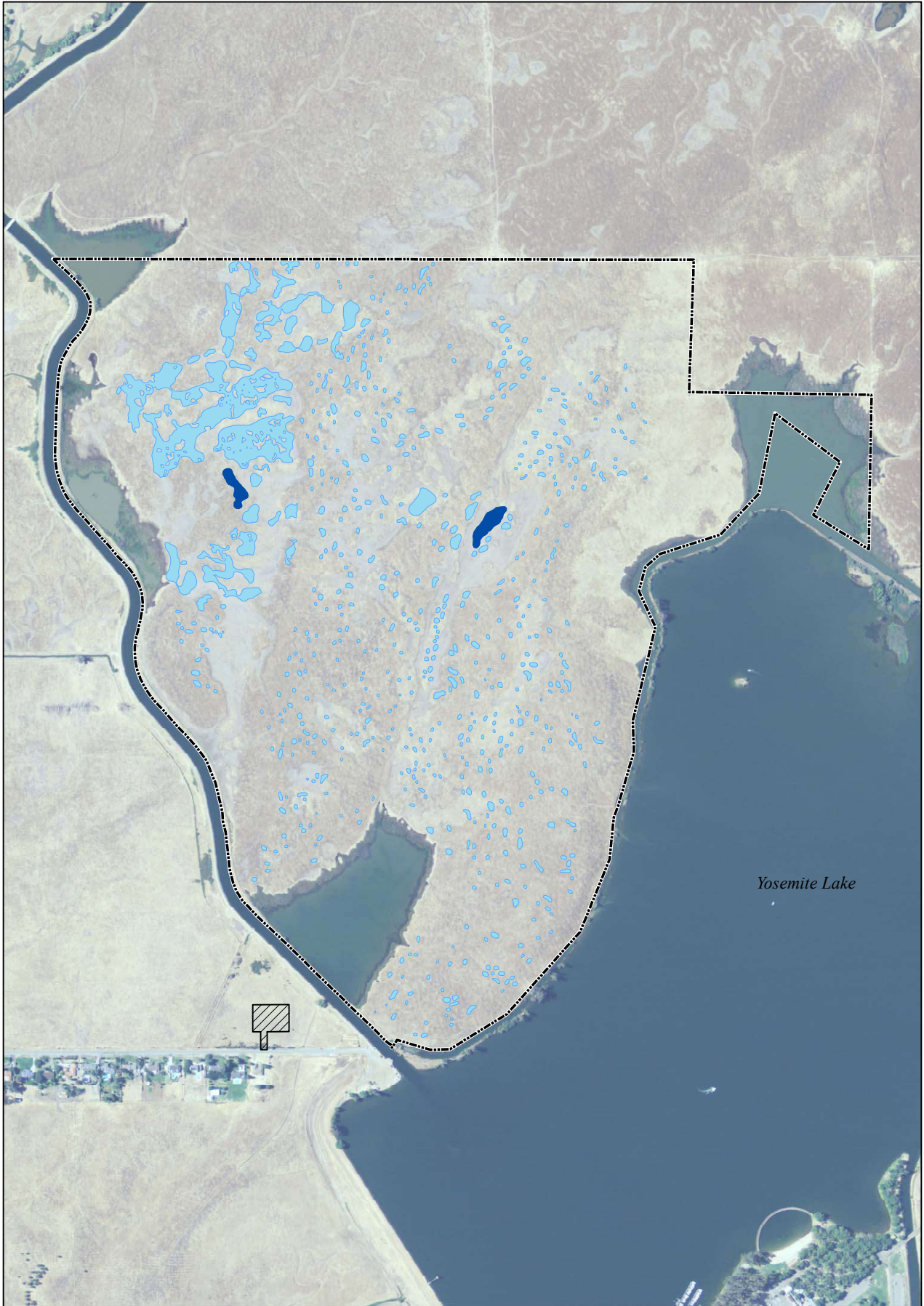
Figure 9
San Joaquin Valley Orcutt Grass in the UC Merced Project Area



YOSEMITE LAKE CONSERVATION AREA

Figure 10





L S A

LEGEND

- Conservation Area Boundary
- Proposed Staging Area

Wetlands

- U.C. Merced Mitigation Wetland
- U.C. Merced Mitigation Wetland - CTS Breeding

FIGURE 11



0 300 600
FEET

SOURCE: USDA NAIP (2012).

I:\MGL830\GIS\Maps\YLCA Dev Plan\Figure12_Preliminary Wetland Restoration Area by Responsible Party.mxd (10/21/2015)

Yosemite Lake Conservation Area
Preliminary Wetland Restoration Area by Responsible Party

**CESA Incidental Take Permit No. 2081-2009-010-04
Amendment No. 4**

**University of California, Merced Campus
and Community North Project**

Attachments 1 through 6

Attachment 1

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

**AMENDED INCIDENTAL TAKE PERMIT NO. 2081-2009-010-04
(Amendment No. 4)**

PERMITTEE 1: Regents of the University of California

PERMITTEE 2: Virginia Smith Trust

PERMITTEE 3: County of Merced

**PROJECT: University of California, Merced
Campus and Community North Project**

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the 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 (Conditions of Approval). 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.

BEFORE COMMENCING GROUND- OR VEGETATION-DISTURBING ACTIVITIES					
	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
1	Before initiating Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition of Approval <u>Designated Representative</u>	Before commencing ground- or vegetation-disturbing activities Entire Project Notify CDFW if a substitute Designated Representative is selected or identified at any time.	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of Designated Biologist(s) and/or Designated Monitor(s) at least 30 days before starting Covered Activities using the Biologist Resume Form (Attachment 5) or another format containing the same information. CDFW may approve Designated Biologist(s) for one or more Covered Species in the ITP. For example, CDFW may approve a Designated Biologist to implement all Conditions of Approval for CTS or approve a Designated Biologist to implement all Conditions of Approval in the ITP. The Designated Biologist(s) maybe assisted by approved individuals identified as a Designated Monitor that may not meet the qualifications to be a Designated Biologist to assist in compliance monitoring and/or implementation of specific Conditions of Approval. Designated Monitor(s) and their specific activities shall be approved in advance and in writing by CDFW. Permittee shall ensure that the Designated Biologist(s) and Designated Monitor(s) are knowledgeable and experienced in the biology and natural history of the Covered Species. The Designated Biologist(s) and Designated Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Designated Monitor(s) in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist(s) or Designated Monitor(s) must be changed.	ITP Condition of Approval <u>Designated Biologist(s) and/or Designated Monitor(s)</u>	At least 30 days before commencing ground- or vegetation-disturbing activities Entire Project Notify CDFW if the Designated Biologist(s) or Designate Monitor(s) must be changed	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
3	<p>Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before they perform 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; the status of the Covered Species pursuant to CESA including legal protection; recovery efforts; penalties for violations; and the Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before they perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. Permittee shall also maintain a continuous public education program to inform the students, residents, and staff of sensitive resource protection needs.</p>	<p>ITP Condition of Approval <u>Education Program</u></p>	<p>Before commencing ground- or vegetation-disturbing activities</p> <p>Entire Project</p> <p>Provided to any new workers before they perform work in the Project Area</p> <p>Maintain a continuous public education program to inform the students, residents, and staff of sensitive resource protection needs</p>	<p>Permittee/ Designated Biologist</p>	
4	<p>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 closed (animal-proof) containers and removed regularly (at least once a week) to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.</p>	<p>ITP Condition of Approval <u>Trash Abatement</u></p>	<p>Before commencing ground- or vegetation-disturbing activities</p> <p>Entire Project</p> <p>Regularly/at least once a week</p>	<p>Permittee</p>	
5	<p>A Work Area is defined as a discrete construction zone and associated access routes, access points, staging/stockpiling areas within the Project Area where Covered Activities will occur. Permittee shall clearly delineate the boundaries of the Work Area with fencing, stakes, or flags where Covered Activities are planned to occur in the immediate future and before starting Covered Activities. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags in effective condition until the completion of Covered Activities.</p>	<p>ITP Condition of Approval <u>Delineation of Work Areas</u></p>	<p>Before commencing ground- or vegetation-disturbing activities</p>	<p>Permittee</p>	
6	<p>Before starting Covered Activities, 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. Permittee shall maintain all fencing, stakes, and flags in effective condition until the completion of Covered Activities.</p>	<p>ITP Condition of Approval <u>Delineation of Habitat</u></p>	<p>Before commencing ground- or vegetation-disturbing activities</p>	<p>Permittee</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition of Approval <u>Notification Before Commencement</u>	14 days before commencing ground- or vegetation-disturbing activities	Permittee/ Designated Representative	
8	The Designated Biologist shall survey the work site no more than 14 days before the Permittee begins Covered Activities within 1.3 miles of known CTS breeding habitat. These surveys shall provide 100 percent visual coverage of potential habitat (including burrow and crevice openings) within the Work Area and a 50-foot buffer zone around the Work Area. If the Designated Biologist finds any life stages of CTS (adults, eggs, or larvae) the Designated Biologist or Designated Representative shall immediately contact CDFW. The Designated Biologist shall relocate any adult CTS that is found in accordance with the CDFW-approved <u>California Tiger Salamander Relocation Plan</u> and coordinate with CDFW if CTS eggs or larvae are found. The Designated Biologist shall hold the appropriate State and federal Scientific Collecting Permits (SCP) for amphibians to be authorized to capture and handle CTS. The Designated Biologist may be assisted by approved biologists that do not have an SCP; these biologists shall be identified as Designated Monitors. Permittee shall provide the survey results to CDFW in a written report before starting Covered Activities.	ITP Condition of Approval <u>California Tiger Salamander Surveys</u>	No more than 14 days before commencing ground- or vegetation-disturbing activities Provide the survey results to CDFW in a written report before starting Covered Activities	Permittee/ Designated Biologist	
9	The Designated Biologist shall prepare a CTS relocation plan and submit it to CDFW for approval at least 30 days prior to the beginning of Covered Activities occurring within 1.3 miles of known CTS breeding habitat and before conducting surveys per Condition of Approval <u>California Tiger Salamander Surveys</u> . Covered Activities within these areas may not proceed until the <u>California Tiger Salamander Relocation Plan</u> is approved by CDFW. Permittee shall submit any proposed changes to the <u>California Tiger Salamander Relocation Plan</u> to CDFW in writing and CDFW shall approve proposed changes prior to implementation of any activities pursuant to a modified <u>California Tiger Salamander Relocation Plan</u> .	ITP Condition of Approval <u>California Tiger Salamander Relocation Plan</u>	At least 30 days before commencing ground- or vegetation-disturbing activities and before <u>California Tiger Salamander Surveys</u> and <u>Small Mammal Burrow Surveys and Excavation</u>	Permittee/ Designated Biologist	
10	During surveys per Condition of Approval <u>California Tiger Salamander Surveys</u> , the Designated Biologist(s) shall flag any small mammal burrows and crevices suitable for CTS occupancy within the Work Area and a 50-foot buffer zone around the Work Area if the burrow/crevice is within 0.25 mile of known or potential CTS breeding habitat. Any small mammal burrows or crevices that cannot be fully avoided by 50 feet regardless of whether the burrow/crevice is in the Work Area or solely within the Work Area's 50-foot buffer zone shall be fully excavated by the Designated Biologist(s) before starting Covered Activities. The Designated Biologist(s) shall relocate any live CTS discovered during burrow excavation in accordance with the CDFW-approved <u>California Tiger Salamander Relocation Plan</u> . Designated Monitor(s) are prohibited from capturing and handling CTS unless specifically approved in writing by CDFW and under the direct supervision of the Designated Biologist(s).	ITP Condition of Approval <u>Small Mammal Burrow Surveys and Excavation</u>	Before commencing ground- or vegetation-disturbing activities	Permittee/ Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
11	<p>No later than 48 hours after surveying, flagging, and excavating small mammal burrows/crevices in accordance with Conditions of Approval <u>California Tiger Salamander Surveys</u> and <u>Small Mammal Burrow Surveys and Excavation</u>, Permittee shall install CTS exclusion fencing around the Work Area in upland habitat areas within 1.3 miles of potential or known CTS breeding habitat. Permittee shall maintain the California tiger salamander exclusion fencing throughout all construction activities. CTS exclusion fencing shall be installed under the direct supervision of a Designated Biologist. Permittee shall use wildlife exclusion fencing consisting of a fine (less than 0.4 inch) mesh equipped with one-way exits to avoid entrapment of amphibians inside the fence. Hardware cloth is not permitted. Permittee shall bury fencing to a depth of six inches and fencing shall be a minimum of 3.3 feet tall following installation. The fencing shall include the optional barrier lip designed to prevent species such as California tiger salamander from climbing over. The Permittee shall avoid small mammal burrows to the maximum extent possible during installation of the exclusion fencing. Where burrows cannot be avoided, the Designated Biologist shall excavate them by hand before the fence is installed. The Designated Biologist shall relocate any live CTS discovered during these inspections in accordance with the CDFW-approved <u>California Tiger Salamander Relocation Plan</u>. The Permittee may propose an alternative exclusion fence material and/or installation method for specific locations within the Project Area. Any alternative exclusion fence material and/or installation method shall be submitted to CDFW for written approval and shall be approved prior to its use. Permittee and/or Designated Biologist(s) shall inspect the entire length of the CTS exclusion fence and refuge areas (e.g., cover boards) a minimum of once a week during Covered Activities and during periods of inactivity. If Covered Species are found within the interior fence, the Designated Biologist(s) shall relocate them in accordance with the CDFW-approved <u>California Tiger Salamander Relocation Plan</u>.</p>	<p>ITP Condition of Approval <u>Raptor Surveys</u></p>	<p>Before commencing ground- or vegetation-disturbing activities.</p> <p>No later than 48 hours after surveying, flagging, and excavating small mammal burrows/crevices in accordance with Conditions of Approval <u>California Tiger Salamander Surveys</u> and <u>Small Mammal Burrow Surveys and Excavation</u></p>	<p>Permittee/ Designated Biologist</p>	
12	<p>The Designated Biologist shall conduct preconstruction surveys during the raptor nesting season (February 15 through September 15), within 0.5 mile of Covered Activities. Raptor surveys will be conducted no more than 10 days prior to the start of Covered Activities. The Designated Biologist or Designated Representative shall provide the survey results, including negative findings, to CDFW in a written report within 30 days after the start of Covered Activities.</p>	<p>ITP Condition of Approval <u>Raptor Surveys</u></p>	<p>No more than 10 days before commencing ground- or vegetation-disturbing activities.</p> <p>Submit a written report within 30 days after the start of Covered Activities.</p>	<p>Permittee/ Designated Biologist</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
13	No more than 30 days prior to Permittee beginning Covered Activities, the Designated Biologist shall perform a pre-construction survey for SJKF and dens (potential, known, and natal dens) in the Project Area and a buffer zone of 200 feet beyond the Project Area and construction zone.	ITP Condition of Approval San Joaquin Kit Fox Survey	No more than 30 days before commencing ground- or vegetation-disturbing activities.	Permittee/ Designated Biologist	
14	The Designated Biologist shall monitor all potential, known, and natal SJKF dens (USFWS 2011) identified in the Project Area during San Joaquin Kit Fox Survey or previous surveys for a minimum of four (4) consecutive nights using standard methods, including “dusting” the den entrance and apron and other means (wildlife camera) if necessary. Only when the den is determined to be unoccupied after four (4) consecutive nights of monitoring can the den be excavated by the Designated Biologist or individuals under the direct supervision of the Designated Biologist. Potential SJKF dens without any signs of SJKF use or characteristics suggesting it is a SJKF den may be excavated without advance tracking and camera monitoring. Known and natal dens shall not be destroyed until Permittee has installed replacement den(s) per Condition of Approval Replacement San Joaquin Kit Fox Dens . If an individual SJKF does not vacate a den within a reasonable timeframe, Permittee shall consult with CDFW to obtain written guidance prior to proceeding with den destruction. If a SJKF is still present after four (4) or more consecutive days of monitoring, the den may have to be excavated when, in the judgment of the Designated Biologist and in consultation with CDFW, the den is temporarily vacant. The Designated Biologist may excavate the den during the animal’s normal foraging activities and after consultation with CDFW. The Designated Biologist shall excavate the den by hand unless soil conditions necessitate the use of excavating equipment; however, Permittee shall consult with CDFW to obtain written approval to use excavating equipment prior to doing so and shall exercise extreme caution. The Designated Biologist shall accomplish the destruction of the den by careful excavation until it is certain that no SJKF are inside. The Designated Biologist shall fully excavate the den, fill it with dirt, and compact it to ensure that SJKF cannot reenter or use the den during the Covered Activities. If at any point during excavation a SJKF is discovered inside the den, the Designated Biologist shall immediately cease the excavation activity and continue monitoring of the den as described above. Destruction of the den may be completed when, in the judgment of the Designated Biologist, the SJKF has escaped from the partially destroyed den. Permittee shall not exclude SJKF from occupied natal dens (den in which SJKF young are reared, typically with two or more openings) during the pupping/rearing season. If a natal den is discovered, Permittee shall not excavate natal dens (occupied or unoccupied) until the pups and adults have vacated the den <u>and</u> then only after written consultation and concurrence from CDFW to do so.	ITP Condition of Approval San Joaquin Kit Fox Den Monitoring and Excavation	After installation of artificial den(s) per to Condition of Approval Replacement San Joaquin Kit Fox Dens and before commencing ground- or vegetation-disturbing activities	Permittee/ Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	Permittee shall replace each known and natal SJKF den that must be destroyed per Condition of Approval <u>San Joaquin Kit Fox Den Monitoring and Excavation</u> with an artificial den to compensate for the loss of important shelter used for protection, reproduction, and escape from predators. The Designated Biologist shall determine the appropriate design and placement of replacement dens through consultation with CDFW on a site-specific basis. Permittee shall install artificial den(s) before starting Covered Activities and before destroying/excavating known and natal SJKF dens per Condition of Approval <u>San Joaquin Kit Fox Den Monitoring and Excavation</u> .	ITP Condition of Approval <u>Replacement San Joaquin Kit Fox Dens</u>	Before SJKF den excavation per Condition of Approval <u>Den Monitoring and Excavation</u> and before commencing ground- or vegetation-disturbing activities	Permittee/ Designated Biologist	
16	Permittee shall develop a salvage plan for succulent owls' clover, San Joaquin Valley Orcutt grass, and Colusa grass and submit it to CDFW for approval at least 30 days prior to beginning Covered Activities within 1,000 feet of known vernal pools, swales, or other wetland habitat. Covered Activities within these areas may not proceed until the Salvage Plan is approved by CDFW.	ITP Condition of Approval <u>Salvage Plan</u>	At least 30 days before commencing ground- or vegetation-disturbing activities	Permittee	
17	In areas with intact vernal pool, swale, or wetland habitat the Designated Biologist shall conduct botanical surveys prior to the Permittee beginning Covered Activities. The botanical surveys shall be floristic in nature, cover the entire area of direct and indirect effects, and should be timed appropriately to detect all species which may occur within the Project Area. The Designated Biologist or Designated Representative shall provide the survey results to CDFW in a written report within 30 days after the start of Covered Activities within areas with intact vernal pool, swale, or wetland habitat.	ITP Condition of Approval <u>Botanical Surveys</u>	Before commencing ground- or vegetation-disturbing activities Provide survey results to CDFW within 30 days of the beginning of Covered Activities	Permittee/ Designated Biologist	
18	Temporary fencing that delineates the Project Area as required by Conditions of Approval <u>Delineation of Work Area Boundaries</u> and <u>Delineation of Habitat</u> shall be placed by the Permittee such that it excludes the greatest number of Covered Species possible. Exact fencing locations shall be determined by the Designated Biologist.	ITP Condition of Approval <u>Placement of Exclusion Fencing</u>	Before commencing ground- or vegetation-disturbing activities	Permittee/ Designated Biologist	
19	If any of the plant Covered Species are found in the Project Area, the Designated Biologist shall salvage and transplant them in accordance with the CDFW-approved <u>Salvage Plan</u> .	ITP Condition of Approval <u>Plant Salvage and Relocation</u>	Before commencing ground- or vegetation-disturbing activities	Permittee/ Designated Biologist	
20	Permittee shall notify CDFW in writing before wetland restoration work begins at YLCA and notify CDFW when wetland restoration work is completed at YLCA. Wetland restoration for the Permittee shall be limited to the areas designated in Figure 11. An alternative wetland restoration area for the Permittee may be designated with written approval from CDFW. Wetland restoration work for the Project shall not occur when wetland restoration activities occur for any other project or activity at YLCA.	ITP Condition of Approval <u>Wetland Restoration at YLCA</u>	Before wetland restoration work begins at YLCA and when restoration work is completed at YLCA.	Permittee	

DURING CONSTRUCTION					
	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
21	To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist(s) and/or Designated Monitor(s) shall have authority to immediately stop any activity that is not in compliance with the ITP, and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species, or a species not covered by the ITP. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist(s) and/or Designated Monitor(s) in the performance of their duties. If the Designated Biologist(s) and/or Designated Monitor(s) are unable to comply with the ITP, then the Designated Biologist(s) and/or Designated Monitor(s) shall notify the CDFW Regional Representative (detailed in the Notices section below) immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist(s)/Designated Monitor(s) that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of the ITP.	ITP Condition of Approval <u>Designated Biologist and/or Designated Monitor Authority</u>	Entire Project	Permittee/ Designated Biologist	
22	Permittee shall provide CDFW staff with reasonable access to the Project Area and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition of Approval <u>CDFW Access</u>	Entire Project	Permittee	
23	The Designated Biologist(s) and Designated Monitor(s) shall maintain a construction-monitoring notebook on-site throughout the construction period which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review in the Project Area upon request by CDFW.	ITP Condition of Approval <u>Construction Monitoring Notebook</u>	Entire Project	Permittee/ Designated Biologist	
24	Permittee shall prohibit firearms and domestic dogs from the Project Area and access routes during construction activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.	ITP Condition of Approval <u>Firearms and Dogs</u>	Entire Project	Permittee	
25	Permittee shall develop and establish leash rules and an animal control program.	ITP Condition of Approval <u>Animal Control Program</u>	Entire Project	Permittee	
26	Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat. This includes photodegradable or biodegradable synthetic netting.	ITP Condition of Approval <u>Erosion Control Materials</u>	Entire Project	Permittee	
27	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 that last more than four (4) hours and watering shall not occur if puddles cannot percolate prior to one (1) hour before dusk.	ITP Condition of Approval <u>Dust Control</u>	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	Project-related personnel shall access the Project Area using existing routes and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. Permittee shall strictly prohibit off-road traffic outside the designated Project Area. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, if among other reasons, if additional take of Covered Species or Covered Species habitat impacts will occur as a result of the Project modification.	ITP Condition of Approval <u>Project Access</u>	Entire Project	Permittee/ Designated Representative	
29	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.	ITP Condition of Approval <u>Staging Areas</u>	Entire Project	Permittee	
30	Permittee shall immediately stop and following 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, except in areas that have completed development and have been determined not to be Covered Species habitat by the Designated Biologist, and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition of Approval <u>Hazardous Materials</u>	Entire Project	Permittee	
31	The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or the MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition of Approval <u>Notification of Non-Compliance</u>	Entire Project	Permittee/ Designated Representative	
32	Initially, the Designated Biologist shall be on-site daily when Covered Activities occur. If Covered Activities occur in more than one Work Area, a Designated Biologist(s) shall be present on site in all Work Areas to conduct compliance inspections. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species and to check for compliance with all mitigation and avoidance measures; (2) prevent unlawful take of species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP. Eventually, CDFW may approve, in writing, periodic inspections once Covered Activities are on-going and more routine in nature. To reduce compliance inspections, Permittee shall submit a written request to CDFW, including any additional information that CDFW requests to demonstrate that Covered Activities are on-going and more routine in nature.	ITP Condition of Approval <u>Compliance Monitoring</u>	Daily when Covered Activities occur Entire Project	Permittee/ Designated Representative/ Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
33	The Designated Biologist shall submit all confirmed Covered Species sightings to the California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation. The Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology, the name of the party that actually identified the plant or animal, circumstances of the incident, the general condition and health of each individual, any diagnostic markings, sex, age (juvenile or adult), actions undertaken, and habitat description.	ITP Condition of Approval <u>CNDDDB Observations</u>	Entire Project Within 60 calendar days	Permittee/ Designated Biologist	
34	The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval <u>Compliance Monitoring</u> into a Monthly Compliance Report (MCR) and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Permittee shall submit MCRs to CDFW no more than 15 days after the end of the month. MCRs shall be submitted to CDFW's Central Region Office, Regional Representative, and Headquarters CESA Program. At the time of the ITP's approval, the Central Region Office email is R4CESA@wildlife.ca.gov , with a copy to the Regional Representative Ruby Kwan (Ruby.Kwan@wildlife.ca.gov) and Headquarters CESA Program (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.	ITP Condition of Approval <u>Monthly Compliance Report</u>	Entire Project Monthly Due no more than 15 days after the end of the month	Permittee/ Designated Representative/ Designated Biologist	
35	Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the <u>Final Mitigation Report</u> identified below. Each ASR shall include, at a minimum: (1) a summary of all <u>MCRs</u> , (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 minimizing and mitigating Project impacts; (5) all available information about Project-related take of the Covered Species; (6) survivorship rates of Swainson's hawk replacement trees pursuant to Condition of Approval <u>Tree Replacement</u> ; and (7) information about other Project impacts on the Covered Species. Permittee shall submit ASRs to CDFW's Central Region Office, Regional Representative, and Headquarters CESA Program.	ITP Condition of Approval <u>Annual Status Report</u>	Entire Project Due no later than January 31 of every year	Permittee	
36	Permittee shall immediately notify the Designated Biologist if a Covered Species is killed or taken 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 (559) 243-4005 and by email to CDFW's Central Region Office (R4CESA@wildlife.ca.gov) and Regional Representative (Ruby.Kwan@wildlife.ca.gov). The initial notification to CDFW shall include information regarding the location, species, number of animals taken or injured, name of the CDFW-approved facility where the animal was taken, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition of Approval <u>Notification of Take</u>	Entire Project Immediate initial notification Written report within two calendar days	Permittee/ Designated Representative/ Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
37	If CTS is found by any person in the Project Area before or during Covered Activities, the Permittee shall immediately stop all work that could potentially harm the CTS until the Designated Biologist can relocate the CTS to an active rodent burrow system in accordance with the CDFW-approved <u>California Tiger Salamander Relocation Plan</u> . Designated Monitor(s) are prohibited from capturing and handling CTS unless specifically approved in writing by CDFW and under the direct supervision of the Designated Biologist(s).	ITP Condition of Approval <u>California Tiger Salamander in the Project Area</u>	Entire Project	Permittee/ Designated Biologist	
39	The Permittee and Designated Biologist(s) shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 70 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in areas within 1.3 miles of potential or known CTS breeding habitat until no further rain is forecast unless the Work Area has been encircled with CTS exclusion fencing that is in effective condition pursuant to Condition of Approval <u>California Tiger Salamander Exclusion Fencing</u> . In addition, if a 70 percent or greater chance of rainfall is predicted within 72 hours, construction-related traffic moving through areas within 1.3 miles of potential or known CTS breeding habitat but outside of the CTS exclusion fencing (e.g., on roads) shall not occur at night or within two hours of sunrise and sunset unless a Designated Biologist leads the traffic by foot; further traffic shall not exceed 10 mph during daylight hours until no further rain is forecast. If Covered Activities must continue when rain is forecast in Work Areas within 1.3 miles from potential or known CTS breeding habitat, a Designated Biologist shall survey the Project construction footprint before construction begins each day that rain is forecast. If a Designated Monitor is used to conduct surveys, a Designated Biologist must remain on site to capture and relocate any CTS that are discovered during the surveys. If rain exceeds ¼ inch during a 24-hour period, Permittee shall cease work until no further rain is forecast.	ITP Condition of Approval <u>Rain Forecast</u>	Entire Project	Permittee/ Designated Biologist	
40	Permittee shall strictly prohibit all night work in areas within 1.3 miles of potential or known CTS breeding habitat when a 70 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast. This restriction is not applicable for areas within 1.3 miles of potential or known CTS breeding habitat once they have been encircled with CTS exclusion fencing pursuant to ITP Condition of Approval <u>California Tiger Salamander Exclusion Fencing</u> and is also not applicable to construction-related traffic led by a Designated Biologist by foot in accordance with Condition of Approval <u>Rain Forecast</u> .	ITP Condition of Approval <u>Night Work</u>	Entire Project	Permittee/ Designated Biologist	
41	Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential CTS breeding habitat or into any other "Waters of the State". Permittee shall appropriately protect stockpiles to prevent soil erosion.	ITP Condition of Approval <u>Soil Stockpiles</u>	Entire Project	Permittee	
42	Permittee shall construct roadways within 1.3 miles of known or potential CTS breeding habitat without steep curbs, berms, or dikes, which could prevent CTS from exiting the roadway. If curbs are necessary for safety and/or surface runoff, Permittee shall design and construct them to allow CTS to walk over them. If steep dikes are required, Permittee shall design and construct them to include over-side drains or curb/dike breaks spaced at intervals of 25 feet to allow CTS passage.	ITP Condition of Approval <u>Barriers to California Tiger Salamander Movement</u>	Entire Project	Permittee	
43	To ensure that disease is not conveyed between work sites all Designated Biologist(s) and Designated Monitor(s) shall follow the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (Attachment 2). The Designated Biologist(s) and Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition of Approval <u>Field Work Code of Practice</u>	Entire Project	Permittee/ Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
44	<p>The Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped animals. To prevent inadvertent entrapment of Covered Species or any other animals, the Designated Biologist shall oversee the covering of all excavated, steep-walled holes or trenches more than two feet deep, or of any depth if they contain water or other material, with plywood or other barrier materials at the close of each working day such that animals are unable to enter and become entrapped. Alternatively, Permittee shall provide earthen escape ramps of no more than 3:1 slope every 200 feet. Before holes or trenches are filled, the Designated Biologist shall thoroughly inspect them for trapped animals. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist immediately. Project workers and the Designated Biologist shall allow the Covered Species to escape unimpeded if possible. If CTS is discovered in a hole or trench, the Designated Biologist shall relocate CTS as described in the CDFW-approved <u>California Tiger Salamander Relocation Plan</u>, before Covered Activities are allowed to continue. If an injured Covered Species is discovered at any time, the Designated Representative shall contact CDFW's Regional Representative within one working day of the incident pursuant to Condition of Approval <u>Notification of Take</u>.</p>	<p>ITP Condition of Approval <u>Open Trenches</u></p>	<p>Entire Project Beginning, middle, and end of each day Before open holes, sumps, and trenches are filled</p>	<p>Permittee/ Designated Biologist/ Project Workers</p>	
45	<p>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 notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Project Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the CDFW-approved <u>California Tiger Salamander Relocation Plan</u> if applicable.</p>	<p>ITP Condition of Approval <u>Equipment Inspection</u></p>	<p>Entire Project Before vehicles and equipment are moved</p>	<p>Permittee/ Designated Biologist/ Project Workers</p>	
46	<p>Workers shall thoroughly inspect all construction pipe, culverts, or similar structures with a diameter of three inches or greater that are stored for one or more overnight periods for Covered Species before the pipe is subsequently moved, buried, or capped. If during inspection a Covered Species is discovered inside a pipe, workers shall notify the Designated Biologist and allow the Covered Species to safely escape that section of pipe before moving and utilizing the pipe.</p>	<p>ITP Condition of Approval <u>Materials Inspection</u></p>	<p>Entire Project Before moving, burying, or capping pipe, culverts, or similar structures</p>	<p>Permittee/ Designated Biologist/ Project Workers</p>	
47	<p>If a nesting Swainson's hawk is found within 0.5 mile of the Project Area during <u>Raptor Surveys</u>, or if a historic/potential nest becomes occupied, or a nesting Swainson's hawk is found at any time during Covered Activities, the Designated Biologist shall be present daily for the entire duration of Covered Activities during the nesting season (February 15 through September 15) to monitor the behavior of any Swainson's hawk nesting within 500 feet to 0.5 mile of Covered Activities. The Designated Biologist shall have the authority to order the cessation of all activities within 0.5 mile of any Swainson's hawk nest if the birds exhibit distress and/or abnormal nesting behavior (swooping/stooping, excessive vocalization (distress calls), agitation, failure to remain on nest, failure to deliver prey items for an extended time period, etc.) which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Permittee shall not resume Covered Activities until CDFW has been consulted by the Designated Biologist, and both the Designated Biologist and CDFW confirm that the bird's behavior has normalized.</p>	<p>ITP Condition of Approval <u>Nesting Swainson's Hawk</u></p>	<p>Entire Project Present daily for the entire duration of any Covered Activities</p>	<p>Permittee/ Designated Biologist</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
48	The Permittee and Designated Biologist shall ensure that no Covered Activities occur within 500 feet of an active Swainson's hawk nest during the nesting season (February 15 through September 15).	ITP Condition of Approval <u>Swainson's Hawk Nest Buffer</u>	Entire Project	Permittee/ Designated Biologist	
49	Permittee shall not remove any historic or active Swainson's hawk nest trees during the nesting season (February 15 through September 15). Permittee shall remove a historic or active Swainson's hawk nest tree only between September 16 and February 14 of any year to avoid impacts to nesting Swainson's hawk.	ITP Condition of Approval <u>Tree Removal</u>	Entire Project	Permittee	
50	If Covered Activities affecting Swainson's hawk result in the removal of a Swainson's hawk nest tree in the Project Area, Permittee shall plant native species replacement trees at a 4:1 ratio (four trees for each historic and active nest tree removed) on HM lands in close proximity to suitable foraging habitat. Permittee shall prepare a Swainson's Hawk Nest Tree Replacement Plan and submit it to CDFW for review and written approval. The Swainson's Hawk Nest Tree Replacement Plan shall identify replacement tree locations, planting methods, and any site-specific management activities necessary to ensure the performance criteria of this Condition of Approval are achieved. The HM Lands manager shall monitor the tree survival rates and shall report them in the ASR pursuant to the reporting requirements of Condition of Approval <u>Annual Summary Report</u> . Permittee shall ensure that the number of trees required as compensation under the ITP matches the number of healthy and thriving trees at the end of the initial five-years monitoring period.	ITP Condition of Approval <u>Tree Replacement</u>	Entire Project Prepare a Swainson's Hawk Nest Tree Replacement Plan and submit it to CDFW for review and approval prior to implementation/tree replacement planting	Permittee	
51	If a Covered Species is injured as a result of Covered 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. Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report. Notification shall include the date, time, location (GPS coordinates) and circumstances of the incident, and the name of the facility where the animal was taken.	ITP Condition of Approval <u>Covered Species Injury</u>	Entire Project	Permittee/ Designated Biologist	
52	If a plant Covered Species is destroyed or damaged as a result of Project-related activities outside of the identified Project Area, or because avoidance and minimization measures included in the ITP were not followed, the Permittee shall notify CDFW of the incident immediately, including the extent to which damage to the Covered Species occurred via telephone and email, followed by a written incident report submitted to CDFW. Notification shall include the date, time, location (GPS coordinates), and circumstances of the incident.	ITP Condition of Approval <u>Notification of Plant Damage</u>	Entire Project	Permittee	
53	Permittee shall not collect inoculum from greater than 10 percent of the area of each donor pool. Permittee shall not collect inoculum from vernal pools within the designated inoculum collection area where CESA-listed (threatened, endangered, or rare) or invasive plants occur. Permittee shall provide a written report to CDFW, including maps, documenting the vernal pools used for inoculum collection.	ITP Condition of Approval <u>Inoculum Collection</u>	Prior to/during inoculum collection at collection sites Written report to CDFW after inoculum collection	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
54	<p>Permittee shall permanently preserve 6,286 acres of Tier 1 HM lands which are currently owned in fee title by the UC and located in eastern Merced County. The Tier 1 lands to be used as HM Lands for the Project include:</p> <ul style="list-style-type: none"> i. The 5,130-acre Virginia Smith Trust Preserve (VST); ii. The 1,339-acre Campus Natural Reserve (CNR); iii. The 92-acre Myers Easterly; and iv. The 75 acres of the Yosemite Lake Vernal Pool, LLC's YLCA, 50 acres of which is suitable upland habitat for Covered Species. 	ITP Condition of Approval <u>Habitat Management Land Acquisition</u>	No later than 18 months from the effective date of the ITP if Security is provided	Permittee	
55	<p>Convey a conservation easement to CDFW over the VST, CNR, YLCA, and Meyers Easterly HM lands under terms approved by CDFW within 18 months of execution of the ITP. Alternatively, the transfer may be to a CDFW-approved non-profit organization qualified pursuant to California Government Code section 65965, with CDFW named as a third-party easement beneficiary.</p>	ITP Condition of Approval <u>Habitat Management Land Acquisition</u>	No later than 18 months from the effective date of the ITP	Permittee	
56	<p>Permittee shall provide a recent preliminary title report, initial hazardous materials survey report, and other documents that may be necessary for the conservation easement (see Attachment 3). All documents are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.</p>	ITP Condition of Approval <u>Habitat Management Land Acquisition</u>	No later than 18 months from the effective date of the ITP	Permittee	
57	<p>Manage the VST, CNR, and Meyers Easterly in accordance with the <i>Management Plan for Conservation Lands and the Adjacent Campus Buildout Lands for the University of California, Merced</i> (September 2008) and incorporate the plan by reference into the conservation easements. Similarly, manage the YLCA acreage in accordance with a long-term management plan to be prepared by as part of the Conditions of Approval for ITP No. 2081-2016-025-04 and approved by CDFW and incorporate the plan by reference into the conservation easement. In addition, Permittee shall implement the <u>Take Avoidance and Minimization Measures</u> required by the ITP when conducting biological monitoring, infrastructure maintenance or improvement, and management activities.</p>	ITP Condition of Approval <u>Habitat Management Land Acquisition</u>		Permittee	
58	<p>Permittee may select the conservation easement grantee, land owner, or other party as the land manager. Documents related to land management shall identify the land manager. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change.</p>	ITP Condition of Approval <u>Habitat Management Land Acquisition</u>	No later than 18 months from the effective date of the ITP	Permittee	
59	<p>Permittee shall reimburse CDFW for reasonable expenses incurred during title and documentation review, expenses incurred from other State agency reviews, and overhead related to transfer of HM lands to CDFW. CDFW estimates that this Project will create an additional cost to CDFW of no more than \$3,000 for every fee title deed or easement processed.</p>	ITP Condition of Approval <u>Habitat Management Land Acquisition</u>		Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
60	Sung Mo "Steve" Kang, UC Merced Chancellor, has submitted a letter dated January 26, 2011 (Attachment 4) confirming that the William and Flora Hewlett Foundation (Hewlett Foundation) has already provided \$2 million for the long-term management of the HM lands. This \$2 million will continue to be managed through the UC General Endowment Pool and it is estimated that it will provide \$80,000 per year of interest income in perpetuity. This interest income shall be available for the operation, management and protection of HM lands, including reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action designed to protect or improve the habitat values of the HM lands, in accordance with the <i>Management Plan for Conservation Lands and the Adjacent Campus Buildout Lands for the University of California, Merced</i> (September 2008). <u>Take Avoidance and Minimization Measures</u> required by the ITP shall also be implemented when conducting biological monitoring, infrastructure maintenance or improvement, and management activities.	ITP Condition of Approval <u>Performance Security</u>		Permittee	
61	<p>Permittee shall provide CDFW with the following:</p> <p>a) Within three (3) months of executing the Amended ITP, Permittee shall provide CDFW a draft Memorandum of Understanding (MOU) between the UC and CDFW outlining the conditions under which the UC could hold endowment monies provided for the long-term management of the HM lands (Attachment 4). Endowment monies would be held in accordance with a MOU approved by CDFW.</p> <p>b) The MOU must be finalized within six (6) months of executing the Amended ITP, except that this period may be extended if CDFW has approved a final draft MOU, and requires additional time for its internal processing. Absent finalization of this MOU within six (6) months of executing the Amended ITP, \$2 million shall be submitted to CDFW, where it shall be deposited in a special deposit account established pursuant to Fish and Game Code section 13014. Alternatively, the \$2 million shall be provided to the National Fish and Wildlife Foundation (NFWF). CDFW may pool the endowment with other endowments for the operation, management and protection of HM lands for local populations of the Covered Species. The land manager may be reimbursed for actual costs associated with HM land management (in accordance with the <i>Management Plan for Conservation Lands and the Adjacent Campus Buildout Lands for the University of California, Merced</i> (September 2008)), for up to the amount generated annually.</p>	ITP Condition of Approval <u>Performance Security</u>	<p>Within three (3) months of executing the Amended ITP</p> <p>MOU must be finalized within six (6) months of executing the Amended ITP</p>	Permittee	
POST-CONSTRUCTION					
	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
62	Upon completion of construction 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.	ITP Condition of Approval <u>Refuse Removal</u>	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
63	o 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 <u>MCRs</u> and all <u>ASRs</u> ; (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 take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition of Approval <u>Final Mitigation Report</u>	No later than 45 days after Project completion	Permittee	
64	CDFW accepts as complete the Permittee's Final Mitigation Report required by the ITP.			CDFW	

Attachment 2

The Declining Amphibian Task Force Fieldwork Code of Practice

A code of practice, prepared by the Declining Amphibian Task Force (DAPTF) to provide guidelines for use by anyone conducting field work at amphibian breeding sites or in other aquatic habitats. Observations of diseased and parasite-infected amphibians are now being frequently reported from sites all over the world. This has given rise to concerns that releasing amphibians following a period of captivity, during which time they can pick up unapparent infections of novel disease agents, may cause an increased risk of mortality in wild populations. Amphibian pathogens and parasites can also be carried in a variety of ways between habitats on the hands, footwear, or equipment of fieldworkers, which can spread them to novel localities containing species which have had little or no prior contact with such pathogens or parasites. Such occurrences may be implicated in some instances where amphibian populations have declined. Therefore, it is vitally important for those involved in amphibian research (and other wetland/pond studies including those on fish, invertebrates and plants) to take steps to minimize the spread of disease and parasites between study sites.

1. Remove mud, snails, algae, and other debris from nets, traps, boots, vehicle tires and all other surfaces. Rinse cleaned items with sterilized (e.g. boiled or treated) water before leaving each study site.
2. Boots, nets, traps, etc., should then be scrubbed with 70% ethanol solution (or sodium hypochlorite 3 to 6%) and rinsed clean with sterilized water between study sites. Avoid cleaning equipment in the immediate vicinity of a pond or wetland.
3. In remote locations, clean all equipment as described above upon return to the lab or "base camp". Elsewhere, when washing machine facilities are available, remove nets from poles and wash with bleach on a "delicates" cycle, contained in a protective mesh laundry bag.
4. When working at sites with known or suspected disease problems, or when sampling populations of rare or isolates species, wear disposable gloves and change them between handling each animal. Dedicate sets of nets, boots, traps, and other equipment to each site being visited. Clean and store them separately and the end of each field day.
5. When amphibians are collected, ensure the separation of animals from different sites and take great care to avoid indirect contact between them (e.g. via handling, reuse of containers) or with other captive animals. Isolation from un-sterilized plants or soils which have been taken from other sites is also essential. Always use disinfected/disposable husbandry equipment.
6. Examine collected amphibians for the presence of diseases and parasites soon after capture. Prior to their release or the release of any progeny, amphibians should be quarantined for a period and thoroughly screened for the presence of any potential disease agents.
7. Used cleaning materials (liquids, etc.) should be disposed of safely and if necessary taken back to the lab for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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

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

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

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

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

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

DOCUMENT AND STAGE PROCESS SUMMARY

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

STAGE 1: Property Eligibility Review

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

STAGE 2: Property Acceptance Review

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

STAGE 3: Property Protection and Closing Documentation

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

DOCUMENT PROCESS DETAILS

STAGE 1: Property Eligibility Review

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

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

8. Items Completed by CDFW:

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

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

STAGE 2: Property Acceptance Review

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

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

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

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

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

OR

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

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

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

Permittee Checklist: Habitat Mitigation Land Property Analysis and Protection

Last Update: July 2025

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

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

Permittee Checklist: Habitat Mitigation Land Property Analysis and Protection

Last Update: July 2025

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

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

STAGE 3: Closing Property Protection Documentation

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

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SANTA BARBARA • SANTA CRUZ

SUNG MO "STEVE" KANG
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OFFICE OF THE CHANCELLOR
5200 N. LAKE ROAD
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FAX: (209) 228-4423

January 26, 2011



Dr. Jeffrey R. Single
Manager, Region 4 – Central Region
California Department of Fish and Game
Fresno Office
1234 E. Shaw Avenue
Fresno, California 95344

Re: Letter of Financial Assurance for the Management of UC Merced Mitigation Lands

Dear Dr. Single:

On behalf of the University of California, Merced, I am pleased to submit this letter to the California Department of Fish and Game (CDFG) to confirm that the University of California has the necessary funds to manage UC Merced's preserve lands in perpetuity. The UC Merced California Endangered Species Act (CESA) Incidental Take Permit (ITP) application, which was submitted to CDFG on February 2, 2009, indicates that these preserve lands are the compensatory mitigation for the UC Merced campus and University Community.

As you know, The David and Lucile Packard Foundation (Packard Foundation) provided approximately \$12 million in 2002 toward the development of UC Merced and the University Community, which included the money to purchase these preserve lands. In addition, The William and Flora Hewlett Foundation (Hewlett Foundation) provided \$2 million for the long-term management of these lands. The \$2 million is managed through the University of California General Endowment Pool. The University of California Office of the Treasurer manages the endowment pool and estimates that the Hewlett Foundation endowment will provide over \$80,000 per year of income in perpetuity.

The Hewlett Foundation endowment fund principal and income, as well as the demonstrated success of the University of California in the ownership, management, and maintenance of conservation lands, indicates that the UC Merced mitigation lands will be managed appropriately in perpetuity.

We look forward to working with you during and after issuance of the ITP. Please feel free to call if you have any questions or need further information.

Sincerely,

A handwritten signature in black ink that reads "S.M. Kang".

S.M. "Steve" Kang
Chancellor

Biologist/Botanist Resume Submittal Cover Sheet

Project Name: _____

ITP Number: _____

****Please submit each resume as a separate file. Use of this cover sheet will expedite CDFW review.**

****Please provide the names of up to ten individuals in the order you would like CDFW to review for approval.**

Number of resumes included in Transmittal: _____

	Name	Requested Role¹	Covered Species	COA #(s) to implement (Monitor only)²
1		<input type="checkbox"/> Designated Biologist <input type="checkbox"/> Designated Monitor <input type="checkbox"/> Both		
2		<input type="checkbox"/> Designated Biologist <input type="checkbox"/> Designated Monitor <input type="checkbox"/> Both		
3		<input type="checkbox"/> Designated Biologist <input type="checkbox"/> Designated Monitor <input type="checkbox"/> Both		
4		<input type="checkbox"/> Designated Biologist <input type="checkbox"/> Designated Monitor <input type="checkbox"/> Both		
5		<input type="checkbox"/> Designated Biologist <input type="checkbox"/> Designated Monitor <input type="checkbox"/> Both		
6		<input type="checkbox"/> Designated Biologist <input type="checkbox"/> Designated Monitor <input type="checkbox"/> Both		
7		<input type="checkbox"/> Designated Biologist <input type="checkbox"/> Designated Monitor <input type="checkbox"/> Both		
8		<input type="checkbox"/> Designated Biologist <input type="checkbox"/> Designated Monitor <input type="checkbox"/> Both		
9		<input type="checkbox"/> Designated Biologist <input type="checkbox"/> Designated Monitor <input type="checkbox"/> Both		
10		<input type="checkbox"/> Designated Biologist <input type="checkbox"/> Designated Monitor <input type="checkbox"/> Both		

Reviewed and submitted by: _____ **Date:** _____
Permittee or Designated Representative

¹ Requested roles correspond to the biological staffing requirements indicated in the Incidental Take Permit (ITP). Roles may include a "Designated Biologist" with the necessary experience to survey for special-status species or a "Designated Monitor" with the necessary experience to monitor construction activities for special-status species. More than one role may be requested for an individual.

² Please contact the Regional Representative specified in the ITP with any questions about the Condition of Approval numbers for Designated Monitors.

***** Please Note: While use of this form is not mandatory, CDFW strongly recommends completing this form as it will ensure the receipt of adequate information and expedite CDFW review of biologist's qualifications. By submitting your resume for review and approval, you are acknowledging that you have received a copy of the ITP, have read it, and understand the role of a Designated Biologist (DB) and Designated Monitor (DM) and the responsibilities of a DB or DM required by the ITP. *****

Name of Biologist & Contact Information

Education: (include year graduated)

Training/Workshops: (be prepared to provide copies of certificates upon request; these should be related to the Covered Species (or similar species) in the Incidental Take Permit)

Certifications: (please provide any copies of a CDFW Scientific Collecting Permit, MOU, or USFWS 10(a)(1)(A)) permit; these should be related to the Covered Species (or similar species) in the Incidental Take Permit)

Species Name #1: (Example: California Tiger Salamander)

Project Name #1 (list the information below for all projects (separately) where biologist worked with this species; projects may be listed more than once under each separate species and please only include projects on the resume that demonstrate experience with the Covered Species (or similar species) in the ITP)

Location:

Project date completed: To and from date (month and year)

Incidental Take Permit (ITP) # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows Excavated:

Project Name #2

Location:

Project date completed: To and from date

Incidental Take Permit # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed: # of adults and # of juveniles

Individuals Handled: # of adults and # of juveniles

Burrows Excavated:

Project Name #3 ...

Species Name #2: (Example: San Joaquin Kit Fox)

Project Name #1: (list the information below for all projects (separately) where the biologist worked with this species)

Location:

Project date completed: To and from date

Incidental Take Permit (ITP) # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed:

Dens Observed:

Dens Excavated:

Project Name #2:

Location:

Project date completed: To and from date

Incidental Take Permit (ITP) # (and Other Agency Permits):

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed:

Dens Observed:

Dens Excavated:

Project Name #3: ...

Species Name #3: (Example: Swainson's hawk)

Project Name #1: (list the information below for all projects (separately) where the biologist worked with this species)

Location:

Project date completed: To and from date

Incidental Take Permit (ITP) # (and Other Agency Permits) and/or Project Name:

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed:

Nests Observed:

Project Name #2:

Location:

Project date completed: To and from date

Incidental Take Permit (ITP) # (and Other Agency Permits) and/or Project Name:

Lead biologist Information: Name and contact information (phone number and email address)

Reference: Name and contact information, if different from above (phone number and email address)

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Individuals Observed:

Nests Observed:

Project Name #3: ...

Include any other relevant experience with the Covered Species (or related species) or implementation of Conditions of Approval in the ITP (for example: species relocation, etc.)

Attachment 6

Incidental Take Permit No. 2081-2009-010-04
(Amendment No. 4)

University of California, Merced Campus and Community North Project

1. The Authority section has been amended as follows:

* * *

Permittee 1: Regents of the University of California
Principal Officer: ~~Nathan Brostrom, Interim~~ Juan Sánchez Muñoz, Ph.D.,
Chancellor of UC Merced
Contact Person: Phillip Woods, Director of Physical and Environmental
Planning
(209) 349-2561
Mailing Address: University of California, Merced
5200 North Lake Road
Merced, California 95343

Permittee 2: Virginia Smith Trust
Principal Officer: Steve M. Tietjen, Merced County Superintendent of Schools
and Executive Director of the Virginia Smith Trust
Contact Person: Steve M. Tietjen
(209) 381-6601
Mailing Address: Merced County ~~Board~~Office of Education
632 West ~~44th~~13th Street
Merced, California 95341

Permittee 3: County of Merced
Principal Officer: Nathan Bray P.E., Director of Public Works/Road
Commissioner
Contact Person: Nathan Bray
(209) 385-7602
Mailing Address: Merced County Department of Public Works
715 Martin Luther King Jr. Way
Merced, California 95340

2. An Amended ITP Background section has been added as follows:

On March 30, 2011, the California Department of Fish and Wildlife (CDFW) (previously Fish and Game) issued the original ITP No. 2081-2009-010-04 to the Regents of the University of California (Permittee) for take of California tiger salamander (*Ambystoma californiense*).

Swainson's hawk (*Buteo swainsoni*), succulent owl's clover (*Castilleja campestris* ssp. *succulenta*), Colusa grass (*Neostapfia colusana*), San Joaquin Valley Orcutt grass (*Orcuttia inaequalis*), and San Joaquin kit fox (*Vulpes macrotis mutica*) (collectively, the Covered Species) associated with the University of California, Merced Campus and Community North Project (Project) in Merced County. The Project described in the original ITP includes the construction and operation of the University of California, Merced (UC Merced) Campus which will sustain up to 25,000 full-time students and a contiguous associated community to support the needs of UC Merced. At full build-out, the Project encompasses the approximately 815-acre Campus and 1,951-acre University Community, and sets aside 6,236 acres of Habitat Management (HM) lands as compensatory mitigation for Project-related take of the Covered Species. A portion of the HM lands consists of a 1,307-acre Campus Natural Reserve adjoining the Campus, which is not intended to be developed but would be used for the purposes of research, a vernal pool-grassland habitat/species laboratory for students, and for general education and outreach opportunities. The proposed 1,951-acre University Community is divided into an approximately 833-acre Community North and 1,118-acre Community South. Only the Campus and Community North (approximately 1,648 acres total) were proposed for development. Development of the Community South was not ready to move forward absent development agreements therefore Community South was not covered under the ITP nor subsequent amendments to the ITP.

On September 30, 2011, CDFW issued Major Amendment No. 1 to replace Condition of Approval Small Mammal Burrow Excavation with Salvage Efforts. The original ITP required the Permittee to excavate individual small mammal burrows to minimize direct take of California tiger salamander (CTS) but according to the Permittee, the original requirements of Condition of Approval Small Mammal Burrow Excavation would have been a cost prohibitive expense, logistically difficult to accomplish, and infeasible to implement across approximately 1,045 acres of CTS upland habitat within the Project site. CDFW replaced the original requirements of Condition of Approval Small Mammal Burrow Excavation with Salvage Efforts, which requires the Permittee and Designated Biologist to visually inspect small mammal burrows or burrow complexes incidentally dug up or otherwise disturbed during Project activities. The resulting impacts to the Covered Species remained the same as the original ITP with Major Amendment No. 1.

On October 15, 2015, CDFW issued Major Amendment No. 2 to extend incidental take coverage to off-site wetland restoration activities at Lazy K Ranch (LKR) and Yosemite Lake Conservation Area (YLCA), which were required activities under the Permittee's Section 404 Clean Water Act Permit (SPK-1999-00203) issued by the U.S. Army Corps of Engineers, and require HM lands to be provided at LKR to fully mitigate impacts to the Covered Species. Major Amendment No. 2 updated the *Project Location* to include LKR and YLCA; updated the *Project Description* to describe wetland restoration activities at LKR and YLCA; updated the *Impacts of the Taking on Covered Species* to describe impacts resulting from restoration activities at LKR and YLCA and increase the acreage of impacts on CTS habitat to 1,905.5 acres of permanent impacts and 80 acres of temporary impacts; updated *CEQA Compliance* to reference California Environmental Quality Act (CEQA) documents for the Yosemite Lake Estates General Plan Amendment and LKR Off-Site Mitigation Preserve; updated *Condition of Approval California Tiger Salamander Exclusion Fencing* to allow for alternative CTS exclusion fence design and removed remaining references to small mammal burrow

excavations that were not removed as part of Amendment No. 1; added Conditions of Approval Inoculum Collection and Wetland Restoration at YLCA to minimize impacts on CTS aquatic habitat during collection of inoculum and off-site wetland restoration activities; and under Condition of Approval Habitat Management Land Acquisition, added a requirement that the Permittee provide 65.5 acres of LKR owned in fee title by the Knapp Family as part of HM lands, which increased the total required HM lands acreage from 6,236 acres to 6,301.5 acres.

On June 22, 2020, CDFW issued Major Amendment No. 3 to add a second permittee; update the Project acreage following a transfer of land from University Community Land Company (UCLC, LLC) to the Virginia Smith Trust; remove all references to LKR; add YLCA to HM lands requirements; add clarifying language to multiple Conditions of Approval; and add additional requirements for CTS and Swainson's hawk (SWHA) minimization measures. Major Amendment No. 3 updated contact information for Regents of the University of California; added Virginia Smith Trust as a Permittee and a joint and severally liability clause to the ITP; removed LKR from the *Project Location* and *Project Description*; updated the acreage of the Campus footprint to 1,026 acres and the Community North footprint to 623 acres, for a total of 1,649 acres, and included an updated Figure 4 showing the updated Project footprint; updated *Impacts of the Taking on Covered Species* to add 50 acres of temporary habitat loss for San Joaquin kit fox (SJKF) and SWHA during wetland restoration activities at YLCA; added Designated Monitors to Conditions of Approval Designated Biologist and Designated Biologist Authority; clarified language in Conditions of Approval Dust Control, Hazardous Materials, Rain Forecast, Open Trenches, Raptor Surveys, Swainson's Hawk Nest Buffer, and Tree Removal to ensure that the Conditions of Approval are implemented as intended to minimize impacts to CTS and SWHA; changed Condition of Approval Salvage Efforts back to Small Mammal Burrow Surveys and Excavation to replace visual inspections of burrows with requirements to survey, excavate, and avoid small mammal burrows; added language to Condition of Approval California Tiger Salamander Exclusion Fencing allowing the Permittee to propose a substitute CTS exclusion fencing plan at specific locations; added language to Condition of Approval Tree Replacement requiring the Permittee to prepare and obtain CDFW's approval of a Swainson's Hawk Nest Tree Replacement Plan if/when nest trees are removed as part of the Project; and under Condition of Approval Habitat Management Land Acquisition, removed all references to LKR and the Knapp Family, added YLCA and Yosemite Lake Vernal Pool, LLC, and required Permittee to provide 75 acres of YLCA as part of HM lands requirements, which changed the total required HM lands acreage from 6,301.5 acres to 6,286 acres.

In issuing the original ITP, Major Amendment No. 1, Major Amendment No. 2, and Major Amendment No. 3, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval will fully mitigate impacts to the Covered Species and will not jeopardize the continued existence of the Covered Species. CDFW determined that the impacts of the taking were minimized and fully mitigated through permanent protection and perpetual management of compensatory habitat, as required by Fish and Game Code section 2081(b)(2).

On April 28, 2025, CDFW received an application and the corresponding application fee from the Permittee requesting a minor amendment to the ITP. The Permittee requested to add

County of Merced (County) as a third permittee because the County will construct the Campus Parkway project on the west side of Community North (Figure 4c), and UC Merced will issue the County a right-of-way easement for the Campus Parkway project. The Campus Parkway is a roadway located on the east side of the City of Merced that will eventually extend from Highway 99 to UC Merced. The County completed the roadway segment between Highway 99 and Yosemite Avenue and needs to continue construction of the roadway to UC Merced. The Campus Parkway project was identified in the 2009 and 2020 UC Merced Long Range Development Plan (LRDP) and analyzed in the 2009 UC Merced and University Community Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and UC Merced 2020 LRDP Project Subsequent EIR. No new permit conditions are imposed as a result of this amendment, however CDFW determined that modifications to multiple Conditions of Approval were necessary to replace numerical references to Conditions of Approval by their title, add clarifying language to ensure that the Conditions of Approval are implemented as intended to minimize impacts on the Covered Species, add "Designated Monitors" where "Designated Monitors" was not added as part of Major Amendment No. 3, update CDFW contact information, and update *Liability* language as it relates to Amendment No. 4. In addition, the *Project Description* was updated to include the UC Merced 2020 LRDP Project Subsequent EIR because it is relevant to the Project and Campus Parkway. The following figures and attachments were added to the ITP: Figures 4a through 4c showing the 2020 LRDP land use designation and Campus Parkway Project; an updated Attachment 3 Habitat Management Lands Checklist; and Attachment 5, an optional Biologist Resume Form per Condition of Approval Designated Biologist(s) and/or Designated Monitor(s). CDFW finds that this Amendment (Major Amendment No. 4) is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5). Issuance of Major Amendment No. 4 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Major Amendment No. 4 increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

CDFW now reissues this ITP including the revised provisions in Major Amendment No. 1, Major Amendment No. 2, Major Amendment No. 3, and Major Amendment No. 4 (collectively, the Amended ITP). The Amended ITP includes all the operative provisions as the effective date of this Amended ITP. Attachment 6 to this Amended ITP shows the specific red-line changes made to the ITP as a result of Major Amendment No. 4.

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

Effective Date and Expiration Date of this ITP:

This~~The original ITP's effective date was March 30, 2011. This remains the effective date for the original take authorization. This Amended~~ ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **February 28, 2036**.

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 6.7~~ of this ITP.

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

The inclusive Project Site is located in eastern Merced County, approximately two miles northeast of the limits of the City of Merced; occupying portions of Sections 26, 27, 34, and 35; Township 6 south; Range 14 east; and Sections 3 and 2; Township 7 south; Range 14 east (Mount Diablo Base and Meridian). The ~~site~~Project Site is south-southeast of Lake Yosemite Regional Park, east of Lake Road, and the southern boundary of the Project Site is Yosemite Avenue (Figures 1, 2, and 3).

* * *

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

In 2002, the Regents of the University of California approved the development of the University of California, Merced (UC Merced) Project (Project) which consisted of an approximately 2,000-acre ~~UC Merced~~ Campus and an adjacent 2,133-acre University Community with a 750-acre Campus Natural Reserve. Shortly thereafter, the University of California began construction of the first phase of the ~~UC Merced~~ Campus on a 910-acre portion of the 2,000-acre site that did not contain any wetlands or species protected pursuant to CESA. [...]

Through the process, the configuration of the Project was compressed. In 2009, the University of California prepared an updated UC Merced ~~Long Range Development Plan~~LRDP to address the changes in location and footprint and to guide the development of the Project. The Project as defined in the 2009 UC Merced and University Community ~~Environmental Impact Report/Environmental Impact Statement~~ (EIR/EIS) consisted of the construction and operation of a major research University campus in Merced County which will sustain up to 25,000 full time students and a contiguous associated community to support the needs of the University [...]

On June 14, 2016, the UCLC, LLC transferred 623 acres of the Community North property to the Virginia Smith Trust and the remainder to the University of California. With this change, the Campus footprint is now approximately 1,026 acres and the Community North area is approximately 623 acres, for a total of 1,649 acres which is approximately the same area that was analyzed in the 2009 EIR/EIS: (Figure 4).

In March 2020, the University of California finalized the UC Merced 2020 LRDP (UC Merced 2020 LRDP Project Subsequent EIR) that substantially revised the 2009 LRDP. The 2020 LRDP was prepared as a result of the following changes to the LRDP and Project: 1) lower total student enrollment projections through 2030 (15,000 students); 2) updates to projected building space required to accommodate the projected growth; 3) acquisition of more land available for Campus development as a result of the transfer of a portion UCLC, LLC property to the Virginia Smith Trust; 4) adopt University of California sustainability practices and goals for UC Merced; 5) changes to the horizon year 2030 circulation plan (Figure 4a); and 6) replace 2009 LRDP land use designations with six new designations and acreages to inform development of the Campus (Figure 4b) (Campus Mixed Use, Campus Building Reserve and

Support Land, Research Open Space, Active Open Space, Passive Open Space, and Campus Parkway Open Space).

At full build-out, the Campus would include an academic core consisting of instruction, research, and administrative buildings; student housing; campus support; limited commercial development; parking; recreation facilities; trails; transit, bike, and pedestrian paths; roads; connections to Community North; and infrastructure (stormwater collection/retention; potable water delivery; wastewater collection and treatment; fire and irrigation water; telecommunications, electric, and gas). The Community North would be developed with a town center, a business park; mixed-use commercial; cultural facilities; a range of density levels of multi-family housing and single-family residential neighborhoods; parks; open space; schools; transit, bike, and pedestrian paths; schools; roads; parking; and other associated infrastructure. The Community South would be developed in accordance with the County of Merced's previously adopted University Community Plan.

It is important to note that due to the contiguous location of the University of California exclusively controlled Campus and Community North to the Community South; the Community South has been analyzed as part of the University Campus and the entire Community Project under both the ~~California Environmental Quality Act (CEQA)~~ and the National Environmental Policy Act. [...]

In general, the wetland restoration activities at the YCLAYLCA will constitute the conversion of uplands to seasonal wetlands in areas where wetlands historically existed. [...]

For the purpose of discussion within this ITP, as amended, the Project Area includes the 1) development envelope within the inclusive Project Site encompassing the Campus and Community North; 2) the areas of wetland restoration the YLCA (50 acres) and the inoculum collection areas at YLCA; and 3) the 6, ~~236~~286 acres of Habitat Management lands.

* * *

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

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. [...]. The combined survey effort provided an intensive analysis that informed the calculation of occupied habitat acreages and number of known occurrences of species within the UC Merced Campus ~~footprint~~ and the Community North (collectively, the Project Area) (Figures ~~65~~ through 9).

The activities described above that are expected to result in incidental take of individuals of the Covered Species include all of the ground and vegetation disturbance, construction, operation of heavy equipment, vehicle and foot traffic, and other activities necessary for the full development, operation, and maintenance of Campus and Community North, and the off-site wetland restoration activities at YLCA (collectively, Covered Activities). Any activities at Merced County Assessor's Parcel Numbers 052-300-008, 052-300-011, and 052-300-012 are not covered by this ITP. [...]

In association with the off-site restoration activities, wetland restoration is expected to result in an increase of potential breeding habitat for ~~California tiger salamander~~CTS at YLCA and enhance the value of the adjacent uplands resulting from the restored breeding habitat. The wetland restoration area will not be available for ~~San Joaquin kit fox~~SJKF and ~~Swainson's hawk~~SWHA for foraging while restoration activities are in progress and these activities are expected to result in temporary impacts to 50 acres of foraging habitat for these species. [...].

Table 1. Covered Species Habitat Impacts

Species	Habitat Type	Number of Acres Impact
1. California tiger salamander	Non-native grassland (upland refugia)	1,895 acres permanent
	Wetland breeding	7.5 acres permanent
2. Swainson's hawk	Non-native grassland (foraging)	1,514 acres permanent ^a 50 acres temporary ^b
	Nesting	1 nesting tree
3. San Joaquin kit fox	Non-native grassland	1,293 acres permanent ^a 726 acres temporary ^b
4. Succulent owl's clover	Vernal pool	31 acres permanent
5. Colusa grass	Vernal pool	0 acres permanent ^c
6. San Joaquin Valley Orcutt grass	Vernal pool	0 acres permanent ^c

* * *

^b Twenty-five acres of temporary impacts resulting from wetland restoration activities at YLCA will temporarily make the area unavailable to ~~San Joaquin kit fox~~SJKF and ~~Swainson's hawk~~SWHA or as refugia for ~~California tiger salamander~~CTS. These areas will be available to use as foraging habitat for ~~San Joaquin kit fox~~SJKF and ~~Swainson's hawk~~SWHA during dry months when these activities are complete. Some of these wetland restoration areas will also provide suitable breeding habitat features for ~~California tiger salamander~~CTS when these activities are complete.

* * *

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

* * *

- 3. **CEQA Compliance.** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of ~~the~~: 1) ~~the~~ Final Environmental Impact Statement/Environmental Impact Report (SCH No.: 2008041009) certified by the ~~lead agency, the~~ University of California; on March 19, 2009 as the lead agency for the Project pursuant to CEQA ~~in March 2009~~; 2) ~~the~~(Pub. Resources Code, § 21000 et seq.); 2) Final Environmental Impact Report (SCH No.:

1999011011) certified by the ~~lead agency, the~~ County of Merced, ~~on March 27, 2004 as the lead agency~~ for the Yosemite Lakes Estates General Plan Amendment project ~~in March 2024~~; and 3) ~~the Mitigated Negative Declaration~~ Final Subsequent Environmental Impact Report (SCH No.: ~~2015041017~~) ~~adopted~~ 2018041010) certified by the ~~lead agency, the~~ University of California, ~~on March 19, 2020 as the lead agency~~ for the ~~Lazy K Ranch Permittee Responsible Off-Site Mitigation Preserve~~ project in ~~July 2015~~ UC Merced 2020 LRDP.

* * *

5. General Provisions:

* * *

5.2. Designated Biologist(s) and/or Designated Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of ~~a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) is~~ Designated Biologist(s) and/or Designated Monitor(s) at least 30 days before starting Covered Activities using the Biologist Resume Form (Attachment 5) or another format containing the same information. CDFW may approve Designated Biologist(s) for one or more Covered Species in this ITP. For example, CDFW may approve a Designated Biologist to implement all Conditions of Approval for CTS or approve a Designated Biologist to implement all Conditions of Approval in this ITP. The Designated Biologist(s) maybe assisted by approved individuals identified as a Designated Monitor that may not meet the qualifications to be a Designated Biologist to assist in compliance monitoring and/or implementation of specific Conditions of Approval. Designated Monitor(s) and their specific activities shall be approved in advance and in writing by CDFW. Permittee shall ensure that the Designated Biologist(s) and Designated Monitor(s) are knowledgeable and experienced in the biology and natural history of the Covered Species. The Designated Biologist(s) and Designated Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Designated Monitor(s) in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist ~~must be changed. The Designated Biologist(s) maybe assisted by approved individuals identified by Designated Monitors that may not meet the qualifications to be a Designated Biologist. Designated Monitors and their activities shall be approved in advance and in writing by CDFW(s) or Designated Monitor(s) must be changed.~~

5.3. Designated Biologist and/or Designated Monitor Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist ~~(s) and/or~~ Designated Monitor(s) shall have authority to immediately

stop any activity that is not in compliance with this ITP, and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species, or a species not covered by this ITP. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist(s) and/or Designated Monitor(s) in the performance of their duties. If the Designated Biologist(s) and/or Designated Monitor(s) are unable to comply with the ITP, then the Designated Biologist(s) and/or Designated Monitor(s) shall notify the CDFW Regional Representative (detailed in the Notices section below) immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist(s)/Designated Monitor(s) that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.

* * *

- 5.5. Education Program. [...]. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before ~~their performing~~they perform work in the Project Area. [...]. ~~The~~ Permittee shall also maintain a continuous public education program to inform the students, residents, and staff of sensitive resource protection needs.
- 5.6. Construction Monitoring Notebook. The Designated Biologist(s) and Designated Monitor(s) shall maintain a construction-monitoring notebook on-site throughout the construction period which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. [...].

* * *

- 5.10. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat. This includes photodegradable or biodegradable synthetic netting.
- 5.11. Delineation of Property Boundaries. ~~Before starting Covered Activities~~Work Areas. A Work Area is defined as a discrete construction zone and associated access routes, access points, staging/stockpiling areas within the Project Area where Covered Activities will occur. Permittee shall clearly delineate the boundaries of the ~~construction area~~Work Area with fencing, stakes, or flags where Covered Activities are planned to occur in the immediate future and before starting Covered Activities. Permittee shall restrict all Covered Activities

to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags in effective condition until the completion of ~~construction~~Covered Activities.

5.12. Delineation of Habitat. Before starting Covered Activities, 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. Permittee shall maintain all fencing, stakes, and flags in effective condition until the completion of Covered Activities.

* * *

5.14. Project Access. [...]. CDFW may require an amendment to this ITP if among other reasons, if additional take of Covered Species ~~mayor Covered Species~~ habitat impacts will occur as a result from of the Project modification.

* * *

6. Monitoring, Notification and Reporting Provisions:

* * *

6.2. Notification of Non-compliance~~Compliance~~. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, [...].

6.3. Compliance Monitoring. Initially, the Designated Biologist shall be on-site daily when Covered Activities occur. If Covered Activities occur in more than one Work Area, a Designated Biologist(s) shall be present on site in all Work Areas to conduct compliance inspections. The Designated Biologist shall [...]. Eventually, CDFW may approve, in writing, periodic inspections once ~~maintenance activities~~ Covered Activities are on-going and more routine in nature. To reduce compliance inspections, Permittee shall submit a written request to CDFW, including any additional information that CDFW requests to demonstrate that Covered Activities are on-going and more routine in nature.

* * *

6.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition ~~6.3~~ of Approval Compliance Monitoring into a Monthly Compliance Report (MCR) 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~~ Permittee shall submit MCRs to CDFW no more than 15 days after the end of the month. MCRs shall be submitted to CDFW's Regional~~Central Region~~ Office ~~at the office 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-Central Region Office email is R4CESA@wildlife.ca.gov, with a copy to the Regional Representative is Annee Ferranti (aferranti@CDFW.ca.gov). Ruby Kwan (Ruby.Kwan@wildlife.ca.gov) and Headquarters CESA Program (CESA@wildlife.ca.gov). CDFW may at any time increase [...].

- 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 identified in Condition 6.5 MCRs, (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; [...]; (6) survivorship rates of Swainson's hawk replacement trees pursuant to Condition of Approval Tree Replacement; and (67) information about other Project impacts on the Covered Species. Permittee shall submit ASRs to CDFW's Central Region Office, Regional Representative, and Headquarters CESA Program.
- 6.7. 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 MCRs and all ASRs; (2) a copy of the table in the MMRP with notes showing [...].
- 6.8. Notification of Take.** [...]. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005; and by email to CDFW's Central Region Office (R4CESA@wildlife.ca.gov) and Regional Representative (Ruby.Kwan@wildlife.ca.gov). The initial notification to CDFW shall include information regarding the location, species, number of animals taken or injured, name of the CDFW-approved facility where the animal was taken, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

7. Take Avoidance and Minimization Measures:

- 7.1. California Tiger Salamander (CTS) Surveys.** The Designated Biologist shall survey the work site no more than 14 days before the Permittee begins Covered Activities; within 1.3 miles of known CTS breeding habitat. These surveys shall provide 100 percent visual coverage of potential habitat (including burrow and crevice openings) within the Work Area and a 50-foot buffer zone around the Work Area. If the Designated Biologist finds any life stages of California tiger salamander CTS (adults, eggs, or larvae) the Designated Biologist or Designated Representative shall immediately contact CDFW and USFWS. The Designated Biologist shall relocate any adult CTS that is found in

accordance with the CDFW-approved California Tiger Salamander Relocation Plan and coordinate with CDFW if CTS eggs or larvae are found. The Designated Biologist shall hold the appropriate State and federal Scientific Collecting Permits (SCP) for amphibians to be authorized to capture and handle ~~California tiger salamander~~ CTS. The Designated Biologist may be assisted by approved biologists that do not have an SCP; these biologists shall be identified as Designated Monitors. Permittee shall provide the survey results to CDFW in a written report before starting Covered Activities.

- 7.2. California Tiger Salamander Relocation Plan. The Designated Biologist shall prepare a ~~California tiger salamander~~ CTS relocation plan and submit it to CDFW ~~and USFWS~~ for approval at least 30 days prior to the beginning of Covered Activities occurring within 1.3 miles of known CTS breeding habitat and before conducting surveys per Condition of Approval California tiger salamander breeding pools, Tiger Salamander Surveys. Covered Activities within these areas may not proceed until the ~~relocation plan~~ California Tiger Salamander Relocation Plan is approved by CDFW. Permittee shall submit any proposed changes to the California Tiger Salamander Relocation Plan to CDFW in writing and CDFW shall approve proposed changes prior to implementation of any activities pursuant to a modified California Tiger Salamander Relocation Plan.
- 7.3. California Tiger Salamander in Project Area. ~~If California tiger salamander~~ If CTS is found by any person in the Project Area before or during Covered Activities, the Permittee shall immediately stop all work that could potentially harm the ~~California tiger salamander~~ CTS until the Designated Biologist can relocate the ~~California tiger salamander~~ CTS to an active rodent burrow system in accordance with the CDFW-approved California Tiger Salamander Relocation Plan ~~required in Condition of Approval 7.2 above.~~ Designated Monitor(s) are prohibited from capturing and handling CTS unless specifically approved in writing by CDFW and under the direct supervision of the Designated Biologist(s).
- 7.4. Small Mammal Burrow Surveys and Excavation. ~~The Permittee~~ During surveys per Condition of Approval California Tiger Salamander Surveys, the Designated Biologist(s) shall flag any small mammal burrows and crevices suitable for CTS occupancy within the Work Area and a 50-foot buffer zone around the Work Area if the burrow/crevice is within 0.25 mile of known or potential ~~California tiger salamander~~ CTS breeding habitat. Any small mammal burrows or crevices that cannot be fully avoided by 50 feet regardless of whether the burrow/crevice is in the Work Area or solely within the Work Area's 50-foot buffer zone shall be fully excavated by the Designated Biologist(s) ~~as described in the California Tiger Salamander Relocation Plan (Condition of Approval 7.2).~~ before starting Covered Activities. The Designated Biologist(s) shall relocate any live ~~California tiger salamander~~ CTS discovered during burrow excavation in accordance with the CDFW-approved California Tiger Salamander Relocation Plan ~~required.~~ Designated Monitor(s) are prohibited from capturing and handling CTS unless

specifically approved in Condition of Approval 7.2 above writing by CDFW and under the direct supervision of the Designated Biologist(s).

- 7.5. California Tiger Salamander Exclusion Fencing.** No later than 48 hours after surveying, flagging, and excavating small mammal burrows/crevices in accordance with Conditions of Approval California Tiger Salamander Surveys and Small Mammal Burrow Surveys and Excavation, Permittee shall place California tiger salamander install CTS exclusion fencing around the construction footprint following the CTS salvage efforts described in Condition of Approval 7.4, above, Work Area in upland habitat areas within 1.3 miles of potential or known California tiger salamander CTS breeding sites habitat. Permittee shall maintain the California tiger salamander exclusion fencing throughout all construction activities. CTS exclusion fencing shall be installed under the direct supervision of a Designated Biologist. Permittee shall use wildlife exclusion fencing, which consists consisting of a fine (less than 0.4 inch) mesh equipped with one-way exits to avoid entrapment of amphibians inside the fence. Hardware cloth is not permitted. [...]. The Designated Biologist shall relocate any live CTS discovered during these inspections in accordance with the CDFW-approved CTS relocation plan. Alternatively, the California Tiger Salamander Relocation Plan. The Permittee may propose substitute an alternative exclusion fence plan material and/or installation method for specific locations within the Project Area. Any substitute alternative exclusion fence plan material and/or installation method shall be submitted to CDFW for written approval and shall be approved prior to its use. Permittee and/or Designated Biologist(s) shall inspect the entire length of the CTS exclusion fence and refuge areas (e.g., cover boards) a minimum of once a week during Covered Activities and during periods of inactivity. If Covered Species are found within the interior fence, the Designated Biologist(s) shall relocate them in accordance with the CDFW-approved California Tiger Salamander Relocation Plan.
- 7.6. Rain Forecast.** The Permittee and Designated Biologist(s) shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 70 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in areas within 1.3 miles of potential or known California tiger salamander until no further rain is forecast. If work must continue when rain is forecast CTS breeding habitat until no further rain is forecast unless the Work Area has been encircled with CTS exclusion fencing that is in effective condition pursuant to Condition of Approval California Tiger Salamander Exclusion Fencing. In addition, if a 70 percent or greater chance of rainfall is predicted within 72 hours, construction-related traffic moving through areas within 1.3 miles of potential or known CTS breeding habitat but outside of the CTS exclusion fencing (e.g., on roads) shall not occur at night or within two hours of sunrise and sunset unless a Designated Biologist leads the traffic by foot; further traffic shall not exceed 10 mph during daylight hours until no further rain is forecast. If Covered Activities must continue when rain is forecast in Work Areas within 1.3 miles from potential or known CTS breeding habitat, a Designated Biologist shall survey the Project construction footprint before

construction begins each day that rain is forecast. If a Designated Monitor is used to conduct surveys, a Designated Biologist must remain on site to capture and relocate any ~~California tiger salamander~~ CTS that are discovered during the surveys. If rain exceeds ¼ inch during a 24-hour period, Permittee shall cease work until no further rain is forecast. ~~This restriction is not applicable for areas within 1.3 miles of potential or known California tiger salamander breeding sites once they have been encircled with California tiger salamander exclusion fencing pursuant to ITP Condition 7.5. However, even after California tiger salamander exclusion fencing is installed, this condition still applies to construction-related traffic moving through areas within 1.3 miles of potential or known California tiger salamander breeding sites but outside of the salamander exclusion fencing (e.g., on roads).~~

- 7.7. Night Work.** Permittee shall strictly prohibit all night work in areas within 1.3 miles of potential or known ~~California tiger salamander~~ CTS breeding ~~sites~~ habitat when a 70 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast. This restriction is not applicable for areas within 1.3 miles of potential or known ~~California tiger salamander~~ CTS breeding ~~sites~~ habitat once they have been encircled with ~~California tiger salamander~~ CTS exclusion fencing pursuant to ITP ~~condition 7.5.~~ Condition of Approval California Tiger Salamander Exclusion Fencing and is installed, ~~this condition still applies~~ also not applicable to construction-related traffic ~~moving through areas within 1.3 miles of potential or known California tiger salamander breeding sites but outside~~ led by a Designated Biologist by foot in accordance with Condition of the California tiger salamander exclusion fencing (e.g., on roads). Approval Rain Forecast.
- 7.8. Soil Stockpiles.** Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential ~~California tiger salamander~~ CTS breeding ~~pool~~ habitat or into any other “Waters of the State,” ~~in accordance with Fish and Game Code 5650.”~~ Permittee shall appropriately protect stockpiles to prevent soil erosion.
- 7.9. Barriers to California Tiger Salamander Movement.** Permittee shall construct roadways within 1.3 miles of known or potential ~~California tiger salamander~~ CTS breeding ~~sites, including but not limited to the sites shown on Figure 1,~~ habitat without steep curbs, berms, or dikes, which could prevent ~~California tiger salamander~~ CTS from exiting the roadway. If curbs are necessary for safety and/or surface runoff, Permittee shall design and construct them to allow ~~California tiger salamander~~ CTS to walk over them. If steep dikes are required, Permittee shall design and construct them to include over-side drains or curb/dike breaks spaced at intervals of 25 feet to allow ~~California tiger salamander~~ CTS passage.
- 7.10. Fieldwork Code of Practice.** To ensure that disease is not conveyed between work sites all ~~Biologists~~ Designated Biologist(s) and Designated Monitor(s) shall

follow the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (Attachment 2). The Designated Biologist(s) and Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. Care shall be taken so that all traces of the disinfectant are removed before entering the next aquatic habitat.

- 7.11. Open Trenches. [...]. Project workers and the Designated Biologist shall allow the Covered Species to escape unimpeded if possible. If ~~California tiger salamander~~CTS is discovered in a hole or trench, the Designated Biologist shall relocate ~~California tiger salamanders~~CTS as described in the CDFW-approved California Tiger Salamander Relocation Plan ~~(Condition of Approval 7.2)~~, before Covered Activities are allowed to continue. If an injured Covered Species is discovered at any time, the Designated Representative shall contact ~~the USFWS Sacramento Fish and Wildlife Office and~~ CDFW's Regional Representative within one working day of the incident pursuant to Condition of Approval Notification of Take.
- 7.12. Equipment Inspection. [...]. Alternatively, especially if the animal is inside the fenced Project Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the CDFW-approved relocation plan, California Tiger Salamander Relocation Plan if applicable.
- 7.13. Materials Inspection. [...]. If during inspection a Covered Species is discovered inside a pipe, workers shall notify the Designated Biologist and allow the ~~animal~~Covered Species to safely escape that section of pipe before moving and utilizing the pipe.
- 7.14. Raptor Surveys. [...]. The Designated Biologist or Designated Representative shall provide the survey results, including negative findings, to CDFW in a written report within 30 days after the start of beginning Covered Activities.
- 7.15. Nesting Swainson's Hawk. If a nesting Swainson's hawk is found within 0.5 mile of the Project Area, ~~including access routes, during the nesting season (February 15 through September 15), during Raptor Surveys, or if a historic/potential nest becomes occupied, or a nesting Swainson's hawk is found at any time during Covered Activities~~, the Designated Biologist shall be present daily for the entire duration of ~~any~~ Covered Activities during the nesting season (February 15 through September 15) to monitor the behavior of any Swainson's hawk nesting within 500 feet to 0.5 mile of Covered Activities. [...].

* * *

- 7.17. Tree Removal. Permittee shall ~~prohibit removal of~~not remove any historic or active Swainson's hawk nest trees ~~teduring the nesting season (February 15 through September 15)~~. Permittee shall remove a historic or active Swainson's

hawk nest tree only between September 16 and February 14 of any year to avoid impacts to nesting Swainson's hawk.

- 7.18. Tree Replacement. If Covered Activities affecting Swainson's hawk result in the removal of a Swainson's hawk nest tree in the Project Area, Permittee shall plant native species replacement trees at a 4:1 ratio (four trees for each historic and active nest tree removed) on HM lands in close proximity to suitable foraging habitat. ~~The HM Lands manager shall monitor the tree survival rates and shall report them in the ASR pursuant to the reporting requirements of Condition 6.6 of this ITP. Permittee shall ensure that the number of trees required as compensation under this ITP matches the number of healthy and thriving trees at the end of the initial five years monitoring period.~~ Permittee shall prepare a Swainson's Hawk Nest Tree Replacement Plan and submit it to CDFW for review and written approval. The Swainson's Hawk Nest Tree Replacement Plan shall identify replacement tree locations, planting methods, and any site-specific management activities necessary to ensure the performance criteria of this Condition of ~~approval are achieved.~~ Approval are achieved. The HM Lands manager shall monitor the tree survival rates and shall report them in the ASR pursuant to the reporting requirements of Condition of Approval Annual Summary Report. Permittee shall ensure that the number of trees required as compensation under this ITP matches the number of healthy and thriving trees at the end of the initial five-years monitoring period.
- 7.19. San Joaquin Kit Fox (SJKF) Survey. No more than 30 days prior to Permittee beginning Covered Activities, the Designated Biologist shall perform a pre-construction survey for ~~San Joaquin kit fox that covers~~ SJKF and dens (potential, known, and natal dens) in the Project Area and a buffer zone of 200 feet beyond the Project Area and construction zone.
- 7.20. San Joaquin Kit Fox Den Monitoring and Excavation. The Designated Biologist shall monitor all potential, ~~atypical, active~~ known, and ~~known San Joaquin kit fox~~ natal SJKF dens (USFWS ~~1999~~ 2011) identified in the Project Area during ~~preconstruction~~ San Joaquin Kit Fox Survey or previous surveys for a minimum of ~~three~~ four (4) consecutive nights using standard methods, including "dusting" the den entrance and apron and other means (~~infrared~~ wildlife camera) if necessary. Only when the den is determined to be unoccupied ~~may~~ after four (4) consecutive nights of monitoring can the den be excavated ~~under the direction of~~ by the Designated Biologist. ~~If or individuals under the direct supervision of the Designated Biologist. Potential SJKF dens without any signs of SJKF use or characteristics suggesting it is a SJKF den may be excavated without advance tracking and camera monitoring. Known and natal dens shall not be destroyed until Permittee has installed replacement den(s) per Condition of Approval Replacement San Joaquin kit fox~~ Kit Fox Dens. If an individual SJKF does not vacate a den within a reasonable timeframe, Permittee shall consult with CDFW to obtain written guidance prior to proceeding with den destruction. If a SJKF is still present after three four (4) or more consecutive days of ~~plugging and~~ monitoring, the den may have to be excavated when, in the judgment of the

Designated Biologist, ~~it~~ and in consultation with CDFW, the den is temporarily vacant. The Designated Biologist may excavate the den during the animal's normal foraging activities. ~~and after consultation with CDFW.~~ The Designated Biologist shall excavate the den by hand unless soil conditions necessitate the use of excavating equipment; however, ~~extreme caution must be exercised.~~ Permittee shall consult with CDFW to obtain written approval to use excavating equipment prior to doing so and shall exercise extreme caution. The Designated Biologist shall accomplish the destruction of the den by careful excavation until it is certain that no ~~San Joaquin kit fox~~ SJKF are inside. The Designated Biologist shall fully excavate the den, fill it with dirt, and compact it to ensure that ~~San Joaquin kit fox~~ SJKF cannot reenter or use the den during the Covered Activities. If at any point during excavation a ~~San Joaquin kit fox~~ SJKF is discovered inside the den, the Designated Biologist shall immediately cease the excavation activity and continue monitoring of the den as described above. Destruction of the den may be completed when, in the judgment of the Designated Biologist, the ~~San Joaquin kit fox~~ SJKF has escaped from the partially destroyed den. ~~Exclusion of San Joaquin kit fox~~ Permittee shall not exclude SJKF from active occupied natal dens may not occur (den in which SJKF young are reared, typically with two or more openings) during the pupping/rearing season. If a natal den is discovered, Permittee shall not excavate natal dens (occupied or unoccupied) until the pups and adults have vacated the den and then only after written consultation and concurrence from CDFW to do so.

- 7.21. Replacement San Joaquin Kit Fox Dens. Permittee shall replace each ~~potential,~~ known, and ~~active San Joaquin kit fox~~ natal SJKF den that must be destroyed per Condition of Approval San Joaquin Kit Fox Den Monitoring and Excavation with an artificial den to compensate for the loss of important shelter used for protection, reproduction, and escape from predators. The Designated Biologist shall determine the appropriate design and placement of replacement dens through consultation with CDFW ~~and USFWS~~ on a site-specific basis. Permittee shall install artificial den(s) before starting Covered Activities and before destroying/excavating known and natal SJKF dens per Condition of Approval San Joaquin Kit Fox Den Monitoring and Excavation.

* * *

- 7.23. Salvage Plan. ~~The~~ Permittee shall develop a salvage plan for succulent owls' clover, San Joaquin Valley Orcutt grass, and Colusa grass and submit it to CDFW ~~and USFWS~~ for approval at least 30 days prior to beginning Covered Activities within 1,000 feet of known vernal pools, swales, or other wetland habitat. Covered Activities within these areas may not proceed until the ~~salvage plan~~ Salvage Plan is approved by CDFW.
- 7.24. Botanical Surveys. [...]. The Designated Biologist or Designated Representative shall provide the survey results to CDFW in a written report within 30 days

~~of~~after the ~~beginning~~start of Covered Activities within areas with intact vernal pool, swale, or wetland habitat.

7.25. Placement of Exclusion Fencing. Temporary fencing that delineates the Project Area as required by ~~Condition~~Conditions of Approval ~~5.14~~Delineation of Work Area Boundaries and ~~5.12~~Delineation of Habitat shall be placed by the Permittee such that it excludes the greatest number of Covered Species possible. Exact fencing locations shall be determined by the Designated Biologist.

* * *

7.28. Inoculum Collection. ~~The~~ Permittee shall not collect inoculum from greater than 10 percent of the area of each donor pool. ~~The~~ Permittee shall not collect inoculum from vernal pools within the designated inoculum collection area where ~~state~~-CESA-listed (threatened, endangered, or rare) or invasive plants occur. ~~The~~ Permittee shall provide a written report to CDFW, including maps, documenting the vernal pools used for inoculum collection.

7.29. Wetland Restoration at YLCA. ~~The~~ Permittee shall notify CDFW in writing ~~when~~before wetland restoration work begins at YLCA and notify CDFW when wetland restoration work is completed at YLCA. [...].

8. Habitat Management Land Acquisition:

* * *

8.1. There are two types of conservation lands associated with the Project: lands owned in fee title by the Virginia Smith Trust, the Yosemite Lake Vernal Pool, LLC, the UC, and The Nature Conservancy and which are remote or located immediately adjacent to the campus (i.e.: Tier 1 properties – Yosemite Lake Conservation Area (YLCA), Virginia Smith Trust, Campus Natural Reserve, Myers Easterly, and Cyril Smith Trust), and other lands in the region set aside for resource conservation and held under easement (i.e.: Tier 2 properties – the Robinson, Chance, Carlson, Nelson, and Cunningham properties). [...]:

8.1.1. The 5,~~098~~130-acre Virginia Smith Trust Preserve (VST);

8.1.2. The 1,~~307~~339-acre Campus Natural Reserve (CNR);

8.1.3. The ~~40~~192-acre Myers Easterly; and

8.1.4. The 75 acres of the Yosemite Lake Vernal Pool, LLC’s YLCA, 50 acres of which is suitable upland habitat for Covered Species.

* * *

8.3. As part of this condition, Permittee shall:

* * *

8.3.3. Manage the VST, CNR, and Meyers Easterly in accordance with the *Management Plan for Conservation Lands and the Adjacent Campus Buildout Lands for the University of California, Merced* (September 2008) and incorporate the plan by reference into the conservation easements. [...]. In addition, Permittee shall implement the Take Avoidance and Minimization Measures required ~~in Condition of Approval 7 by this ITP~~ when conducting biological monitoring, infrastructure maintenance or improvement, and management activities.

* * *

9. Performance Security:

9.1. Sung Mo “Steve” Kang, UC Merced Chancellor, has submitted a letter dated January 26, 2011 (Attachment 4) confirming that the William and Flora Hewlett Foundation (Hewlett Foundation) has already provided \$2 million for the long-term management of the HM lands. [...]. Take Avoidance and Minimization Measures required ~~in Condition of Approval 7 by this ITP~~ shall also be implemented when conducting biological monitoring, infrastructure maintenance or improvement, and management activities.

9.2. ~~Within one week of executing this ITP,~~ Permittee shall provide CDFW with the following:

- a) ~~Within three (3) months of executing this Amended ITP, Permittee shall provide CDFW A-a~~ draft Memorandum of Understanding (MOU) between the UC and CDFW outlining the conditions under which the UC could hold endowment monies provided for the long-term management of HM lands (Attachment 4). ~~These Endowment monies would be held in accordance with a MOU approved by CDFW, in a special deposit account established pursuant to Fish and Game Code section 13014 and based on CDFW's pilot program for Local Government and Special Districts (November 2010, Attachment 4)~~
- b) The MOU must be finalized within ~~threesix (6)~~ six (6) months of executing this Amended ITP, except that this period may be extended if CDFW has approved a final draft MOU, and requires additional time for its internal processing. Absent finalization of this MOU within ~~threesix (6)~~ six (6) months of executing this Amended ITP, \$2 million shall be submitted to CDFW, where it shall be deposited in a special deposit account established pursuant to Fish and Game Code section 13014. [...].

* * *

8. Joint and Several Liability was previously an ITP Condition of Approval. Joint and Several liability language was moved under the Liability section of the ITP and the language has amended as follows.

All terms and conditions of this ITP, ~~including those set forth in the attached MMRP~~, shall be binding upon ~~both each~~ Permittee ~~1 and Permittee 2~~. Notwithstanding California Civil Code section 1431 or any other provision of law, each Permittee ~~shall be is~~ jointly and severally liable for ~~providing and maintaining security in accordance with this ITP and for~~ performance of all ~~other~~ terms, conditions, and obligations of this ITP and shall be jointly and severally liable for any unauthorized take or other violations of the 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 including, but not limited to, those set forth in the attached MMRP. Any failure by either Permittee to comply with any term, condition, or obligation ~~set forth in this ITP herein~~ shall be deemed a failure to comply by ~~both all~~ Permittees ~~1 and Permittee 2~~.

* * *

9. The Notices section has been amended as follows:

* * *

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

Ruby Kwan ~~Davis~~
California Department of Fish and Wildlife
20 Lower Ragsdale Drive, Suite 100
Monterey, California 93940
(805) 748-3624
Ruby.Kwan-Davis@wildlife.ca.gov
Ruby.Kwan@wildlife.ca.gov

10. The Compliance with CEQA section has been amended as follows:

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 agencies~~, the Regents of the University of California (UC) and the Merced County Planning and Community Development (County) (See generally Pub. Resources Code, §§ ~~21067, 21069~~.) The ~~lead agency’s UC’s~~ prior environmental review of the Project is set forth in the UC Merced and University of California, Merced Campus and Community North Project Environmental Impact Report (EIR) (SCH No.: 2008041009), dated November 7, 2008, that the ~~lead agency UC~~ certified for the University of California, UC Merced Campus and Community North Project on March 19, 2009, and the UC Merced 2020 LRDP Project Subsequent EIR (SEIR) (SCH No.: 2018041010), dated December 20, 2019, that the UC certified for the 2020 LRDP Project on March 19, 2020. In addition, environmental review of

the Permittee's required off-site wetland restoration work at the Yosemite Lake Conservation Area is set forth in the Yosemite Lakes Estates General Plan Amendment EIR (SCH No.: 1999011011), that the County certified for the Yosemite Lake Estates General Plan Amendment on March 27, 2004. At the time the ~~lead agency~~UC and County certified the ~~EIR~~their environmental documents and approved the Project ~~it~~, the lead agencies also adopted all various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's CEQA findings for this ITP and Project, which are available as a separate document, provide evidence of CDFW's consideration of the ~~lead agency's EIR~~UC's and County's environmental documents for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). [...]

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

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

CDFW finds based on substantial evidence in the ITP application, UC Merced ~~Campus~~ and ~~University~~ Community ~~North~~ Project EIR, UC Merced 2020 LRDP SEIR, Yosemite Lakes Estates General Plan Amendment EIR, 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 of the Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. [...]. This determination was based in part on the impact analysis contained in the *Biological Assessment CWA [...]*, the *2008 Supplement to the Biological Assessment for the University of California, Merced Campus and University Community North* (September, 2008, see Chapter 7) ~~and~~, the *UC Merced and University Community Project Final Environmental Impact Statement/Environmental Impact Report*, SCH No. 2008041009 (March 2009), ~~as well as the UC Merced 2020 Long Range Development Plan (LRDP) Project Subsequent Environmental Impact Report, SCH No. 2018041010 (March 2020)~~, the conservation approach and mitigation strategy contained in the *Formal Section 7 Consultation on the University of California, Merced Campus and Infrastructure Project (199900203)*, *Merced County, California* (reference #1-1-02-F-0107), and the *Final Conservation Strategy for the UC Merced Project* (October, 2008, see page 1-7 and Chapters 5, 6, and 8), the latter of which was developed with significant CDFW input. Based on the above referenced material, CDFW has determined that the protection and management in perpetuity of 6,~~506~~561 acres of compensatory habitat [...];

* * *

12. The Attachments section has been amended as follows:

* * *

<u>FIGURE 4a</u>	<u>Horizon Year 2030 Circulation Plan</u>
<u>FIGURE 4b</u>	<u>UC Merced 2020 Long Range Development Plan Land Use Designation and Acreages</u>
<u>FIGURE 4c</u>	<u>Campus Parkway Work Area</u>
FIGURE 5	Vernal Pools, Swales, and Clay Playas in the UC Merced Project Area

* * *

ATTACHMENT 4	Hewlett Foundation Confirmation Letter
<u>ATTACHMENT 5</u>	<u>Biologist Resume Form</u>
<u>ATTACHMENT 6</u>	<u>Amendment No. 4 with Track Changes</u>

13. The Acknowledgement has been amended as follows:

This Amended ITP is effective as of the date signed by CDFW above. This Amended ITP does not need to be acknowledged by the signatures of the Permittees for this Amended ITP to be effective. At the request of the Permittees, the Acknowledgement below is provided so that the Permittees can acknowledge to each other that tThe undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of the original ITP and this Amended ITP, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP as amended.