



California Department of Fish and Wildlife
North Central Region
1701 NIMBUS ROAD
RANCHO CORDOVA, CALIFORNIA 95670
California Endangered Species Act
Incidental Take Permit No. 2081-2025-026-02

**Log Cabin and Our House Diversion Dams Sediment
Management Plan, Fish Release Outlets Modifications, and
Lohman Ridge Diversion Tunnel Intake Modifications Project**

I. Authority:

This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. 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 pursuant to the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c). (See Cal. Code Regs., tit. 14, § 783.4.)

Permittee: Yuba County Water Agency (Yuba Water)
Principal Officer: Willie Whittlesey, General Manager
Contact Person: Jacob Vander Meulen, Environmental Manager
(530) 443-7412
Mailing Address: 1220 F Street
Marysville, CA 95901

II. Effective Date and Expiration Date of this ITP:

This ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **December 31, 2045**. This ITP will renew for an additional 10-year term so long as the Permittee satisfies the terms section below ("Permit Term") and receives the requisite authorization from CDFW under that section. Any renewal terms may only extend this ITP and its incidental take authorization to a final date of **December 31, 2055**.

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

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's Final Mitigation Report required by Condition **Final Mitigation Report** in section **Monitoring, Notification and Reporting Provisions** of this ITP.

III. Permit Term:

This ITP and its take authorization may be renewed for an additional ten (10) years beyond the expiration date in Section II, above, consistent with the terms of this section. If Permittee seeks a renewal under this section, it will prepare and submit to CDFW a timely and complete 20-year Compliance Report consistent with the requirements of this section at least 180 days prior to the expiration date of this ITP.

The 20-year Compliance Report shall include, at a minimum, the following information:

1. A list of sediment management activities, urgent activities, fish release outlets modifications, and Lohman Ridge diversion tunnel intake modifications completed over the prior 20-year period, including any projects that are currently in progress;
2. Total acres and GIS mapping of impacts to Covered Species habitat(s) over the prior 20-year period;
3. Total acres and GIS mapping depicting onsite restoration of temporarily impacted Covered Species habitat pursuant to **Impacts to Habitat** in section **General Provisions** of this ITP, over the last 20-year period;
4. Number of individuals of Covered Species taken during the last 20-year period. This number shall be broken down by activity, and over the life of the permit;
5. A copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure;
6. An assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing, and mitigating Project impacts;
7. An assessment of whether the Covered Activities and Project Description for Operations and Maintenance are still accurate;
8. Any new information relevant to the conservation of the Covered Species and/or to the Project Area.

Permittee shall meet and confer with CDFW within 60 calendar days of the 20-year Compliance Report submittal to discuss the report and any outstanding or reasonably foreseeable ITP compliance issues. Within 30 calendar days following that meeting, if CDFW determines that there are any outstanding or reasonably foreseeable ITP compliance issues, CDFW shall provide a letter describing those ITP compliance issues and what actions CDFW finds are necessary for the Permittee to remain in or come into compliance with the terms of

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this ITP. Within 30 calendar days of receiving CDFW's letter, the Permittee shall provide CDFW with a written response describing the remedial actions that will be taken by the Permittee to resolve any actual or potential compliance issues. Permittee shall confer with CDFW to confirm the proposed remedial actions by the Permittee are designed to bring the Permittee into compliance with the terms of the ITP. If CDFW determines that there are either no outstanding ITP compliance issues, or that remedial actions proposed by the Permittee under this section are designed to bring the Permittee into compliance with this ITP and/or CESA, CDFW shall provide a letter extending the ITP term for an additional 10 years, not to exceed a final expiration date of December 31, 2055. CDFW may require an amendment to this ITP if it determines such action is either necessary to enforce the proposed remedial actions or would otherwise be necessary under the circumstances. In particular, if CDFW determines that continued implementation of the Project as authorized under this ITP would jeopardize the continued existence of the Covered Species, or where Project changes or changed biological conditions necessitate an ITP amendment to ensure that all Project-related impacts of the taking to the Covered Species are minimized and fully mitigated, the Permittee shall submit a request for an amendment pursuant to Title 14, Section 783.6 of the California Code of Regulations and associated fee based on the fee schedule at time of submittal.

If the Permittee fails to submit a timely and complete 20-year Compliance Report, substantially fails to meet the requirements, standards, and/or timelines in this section, or if CDFW is unable to determine that proposed remedial actions by the Permittee are designed to bring the Permittee into compliance with the terms of this ITP and/or CESA, this ITP will automatically expire as of the date listed in Section II, above, or the terms of the most recent renewal letter from CDFW under this section, whichever is applicable.

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

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition **Final Mitigation Report** in section **Monitoring, Notification and Reporting Provisions** of this ITP.

IV. Project Location:

The long-term sediment control at Log Cabin Diversion Dam and Our House Diversion Dam Sediment Management Plan, Fish Release Outlets Modifications, and Lohman Ridge Diversion Tunnel Intake Modifications Project (Project) is located at the Log Cabin Diversion Dam impoundment on Oregon Creek (Figure 1), 4.3 miles upstream of the confluence with the Middle Yuba River in Yuba County; and the Our House Diversion Dam impoundment on the Middle Yuba River (Figure 2), 12.6 miles upstream of its confluence with the North Yuba River on the border between Sierra County and Nevada County. Disposal Site 1 is located at Latitude 39.88097, Longitude -121.136312. Disposal Site 2A will be located at Latitude

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39.4213, Longitude -121.066, while Disposal Site 2B is located at Latitude 39.42696, Longitude -121.066.

Log Cabin Diversion Dam

The Log Cabin Diversion Dam area is generally located in Township 18N, Range 8E, Section 11 at Latitude 39.44402, Longitude -121.0589.



Figure 1. Log Cabin Diversion Dam impoundment and Oregon Creek downstream location.

The total area for this incidental take permit at Log Cabin Diversion Dam is 3.57 acres, including 1.47 acres of mechanical sediment removal in the impoundment and 0.61 acres of sediment passage downstream of the dam. The work areas for the fish release outlet modifications are within the footprint of mechanical sediment removal.

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Our House Diversion Dam

The Our House Diversion Dam area is generally located in Township 18N, Range 8E, Section 10, at Latitude 39.44402, Longitude -121.0589.



Figure 2. Our House Diversion Dam impoundment and Middle Yuba River downstream location.

The total area for this incidental take permit at Our House Diversion Dam is 10.1 acres, including 4.56 acres of mechanical sediment removal in the impoundment and 0.91 acres of sediment passage downstream of the dam. The work areas for the fish release outlet modifications and Lohman Ridge Diversion Tunnel modifications are within the footprint for mechanical sediment removal.

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Disposal Site 1

In total, Disposal Site 1 is estimated to have the capacity of approximately 90,000 cubic yards of sediment, although the majority of the area has been used during past sediment management activities. The site is located at Latitude 39.388097, Longitude -121.13631, Section 25, Township 18N, Range 07E of USGS quadrangle Challenge.

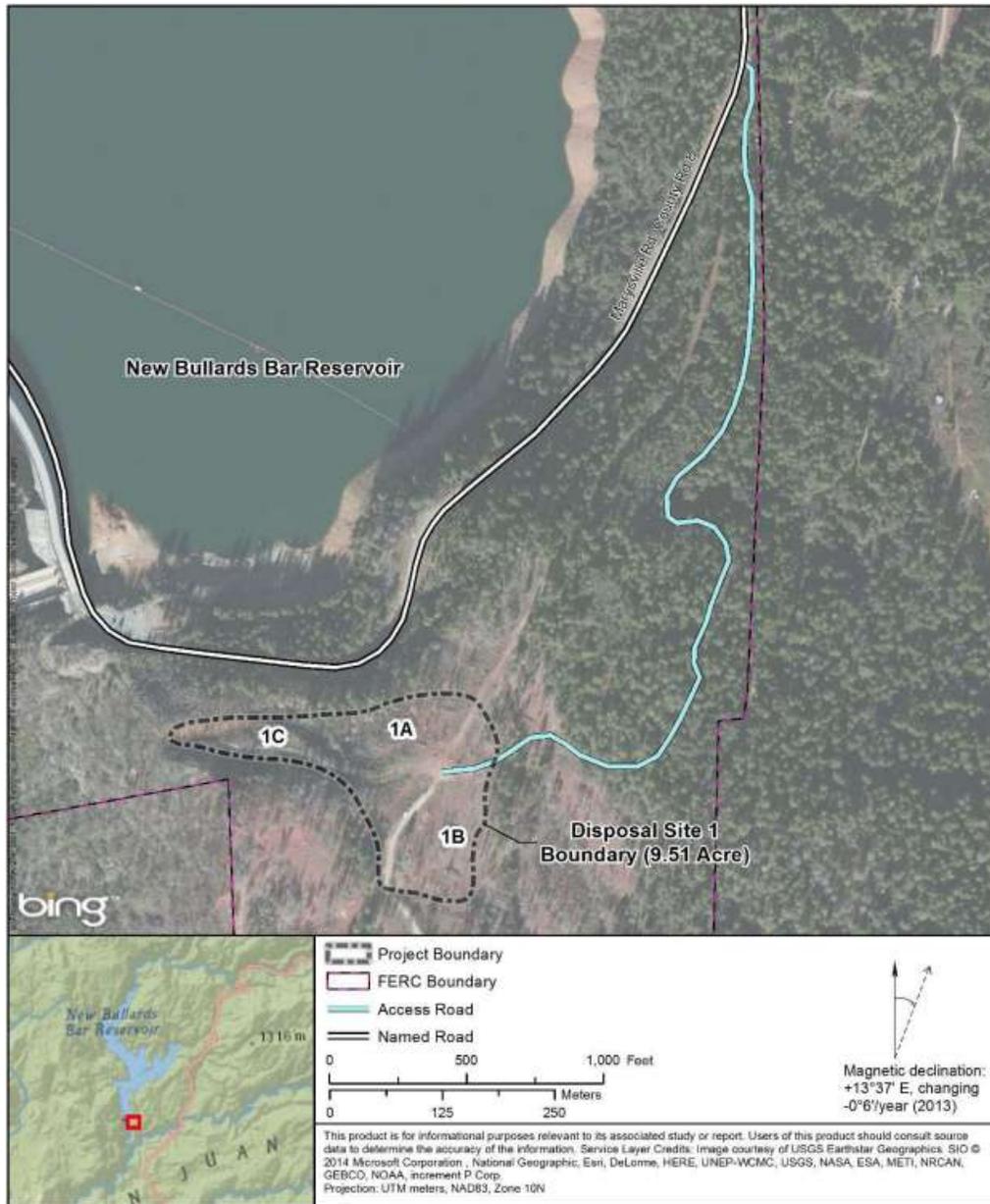


Figure 1. Disposal Site 1 Location.

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Disposal Sites 2A and 2B

In total, Disposal Site 2 is estimated to have the capacity to receive approximately 150,000 cubic yards of sediment. There are 2 sub-areas at Disposal Site 2. Disposal Site 2A is located at Latitude 39.4213, Longitude -121.066, while Disposal Site 2B is located at Latitude 39.42696, Longitude -121.066. Both sub-areas are in Section 15, Township 18N, and Range 8E of USGS quadrangle Camptonville.

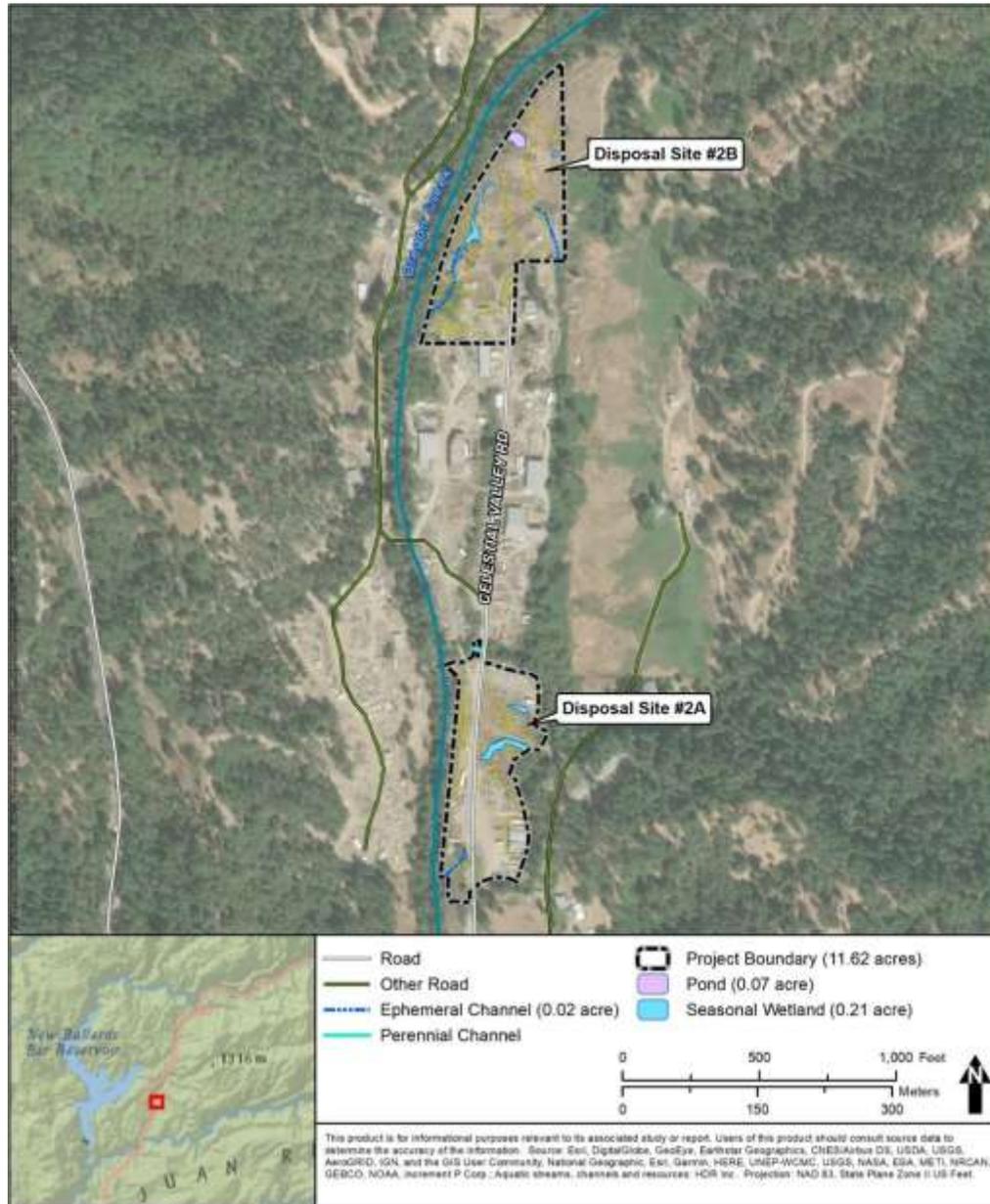


Figure 3. Location of disposal sites 2A and 2B.

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V. Project Description:

Project activities include passage of sediment, planned mechanical removal of sediment, unplanned urgent maintenance, remedial actions for the blockage of dam outlets, fish release outlet modifications, diversion tunnel intake modifications, and related activities described below. It is expected that on average, there will be a sediment passage event every 10 years, and every 6 years there will be mechanical removal events at each impoundment.

Sediment Management at Log Cabin and Our House Diversion Dams

SEDIMENT PASSAGE

At Log Cabin Diversion Dam, at least once between October 1 and March 21 of each year, Yuba Water will slowly open the low-level outlet valve to full capacity for at least 9 consecutive days when mean daily natural inflow into the Log Cabin Diversion Dam impoundment (as calculated by adding the flow at the United States Geological Survey [USGS] streamflow gage 11409400 and the flow into the Camptonville Diversion Tunnel, and subtracting from that total the flow into Lohman Ridge Diversion Tunnel), is equal to or greater than 540 cubic feet per second (cfs). When the valve is closed, it will be closed over 2 days to gradually reduce flow and sediment as follows: Yuba Water will close the low-level outlet valve for one day to approximately 50 percent (%) (by area) of the orifice opening, and by noon on the next day, Yuba Water will close the low-level outlet valve entirely. Yuba Water may close the valve during the 9-day period if mean daily natural inflow into the impoundment, measured as described above, drops below 540 cfs during that period or significant reduction of flow through the valve indicates blockage. During periods when the valve is open, Yuba Water will inspect the valve at least once a day during business hours. If the flows drop below 540 cfs after business hours, Yuba Water may close the valve during regular business hours the next day.

At Our House Diversion Dam, at least once between October 1 and March 21 of each year, Yuba Water will slowly open the low-level outlet valve to full capacity for at least 9 consecutive days when mean daily inflow (as measured at USGS streamflow gage 11400880, plus Lohman Ridge Tunnel), is equal to or greater than 1,500 cfs. When the valve is closed, it will be closed over 2 days to gradually reduce flow and sediment as follows: Yuba Water will close the low-level outlet valve for one day to approximately 50% (by area) of the orifice opening, and by noon on the next day, Yuba Water will close the low-level outlet valve entirely. Yuba Water may close the valve during the 9-day period if mean daily natural inflow into the impoundment, as measured above, drops below 1,500 cfs during that period or if significant reduction of flow through the valve indicates blockage. During periods when the valve is open, Yuba Water will inspect the valve at least once a day during business hours. If the flows drop below 1,500 cfs after business hours, Yuba Water may close the valve during regular business hours the next day.

The valve may be opened more than once under the conditions above during the period between October 1 and March 21 to meet objectives of the Plan.

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BLOCKAGE OUTLETS

If after October 1 of any year, Yuba Water determines that the Our House Diversion Dam’s and/or the Log Cabin Diversion Dam’s fish release valves or low-level outlet valves has been partially or fully blocked by sediment, then Yuba Water may take remedial actions at that valve as described below, consistent with existing permits, to return that valve to proper functioning condition.

This work could include:

- When feasible, utilizing handwork/hand tools to remove sediment; and/or
- Using air and/or water nozzles to blow sediment out of the valves; and/or
- Employing a suction dredge from October 1 to January 31, to remove, at each dam, up to 250 cubic yards of accumulated sediment upstream of the valve. The sediment will be pumped around the dam and discharged directly to the river downstream of the dam. During these activities, Yuba Water will reduce flows over the spillway to ensure safety of the divers working in the diversion pool and to maintain minimum flow requirements. Once sediment has been cleared from the outlet, Yuba Water will open the low-level outlet to flush the outlet and to distribute the deposited material further downstream. The low-level outlet will then be closed gradually over the course of 4 days, with the goal of avoiding any additional sediment buildup that could clog the outlets. Yuba Water may close the valve if Yuba Water anticipates the outlet is at risk of being relogged.

All activities related to suction-dredging (e.g., dredging and opening of the low-level outlet) shall be completed between October 1 to January 31.

MECHANICAL REMOVAL OF SEDIMENT

When needed, mechanical sediment removal may only occur between September 15 and November 15 in any given year when inflow into the impoundment is less than or equal to the minimum instream flow requirement, though the period of removal activity may be extended earlier or later in the year with permission from CDFW.

When sediment removal is planned, Yuba Water will draw down the pool in the impoundment as low as possible immediately prior to the start of work and divert inflows around the diversion so that sediment can be excavated in dry conditions. The water must be drained in a way as to avoid seasonal increases to instream flow downstream of the dams, such as allowing it to drain naturally through the valve or pumping it into the diversion tunnels. The Plan does not allow Yuba Water to perform mechanical excavation work in water.

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When needed, mechanical excavation will be comprised of seven steps:

1. *Testing sediment for metals.* Prior to beginning sediment removal and in accordance with the United States Environmental Protection Agency's Test Methods for Evaluating Solid Waste – Physical/Chemical Methods, five bulk sediment samples will be collected and sent to a state-certified laboratory to determine the content of metals in the sediment. Based on the results, the samples will be categorized as either hazardous or non-hazardous. If sediment testing results are hazardous, additional confirmatory samples may be taken, and an alternate plan for sediment stockpiling or disposal shall be developed in accordance with the test results and appropriate regulations. No material may be removed from the impoundment until the alternate plan is in place and all necessary permits and approvals have been obtained.
2. *Mobilization.* Site mobilization includes delivery to the site, establishing laydown areas, and creating stable pads for equipment, as needed (e.g., if Yuba Water plans to use a mobile crane with a clam shell on the bank).
3. *Diversion and control of water.* Prior to and during diversion of flow and dewatering of the stream channel and work area, Designated Biologists will remove all aquatic vertebrate species using fine mesh, soft material nets (e.g., catch-and-release nets), or another method approved by CDFW, and relocate these species to an area of the stream channel upstream of the sediment removal activities where they will not re-enter the work area. Fine-mesh nets must be installed across the wetted channel upstream of the work area to prevent downstream movements of fish and must be extended beyond the wetted channel to deter movements of frogs and other species capable of moving outside of the wetted channel. Additionally, the Designated Biologist(s) must monitor dewatered areas for stranded aquatic species and relocate them upstream of the work site. Handling of aquatic species must be minimized to the greatest extent feasible. Diversion and control of water may consist of one or two methods:
 - a. Method 1 will channel natural inflow into the impoundment around the planned work area and through the dam via the fish release valve or low-level outlet valve, or both. The diversion will consist of installation of temporary piping to deliver the required flow of water continuously to the valve. Flow will be intercepted upstream of the planned excavation and diverted into a pipe. The pipe will be routed away from the planned excavation. The pipe will be installed in a buried trench and/or protected by steel plates in areas where equipment will pass over the pipe to allow for movement of equipment in the impoundment without damage to the pipe.
 - b. Method 2 consists of pumping water around the work area. A small temporary catchment will be constructed upstream of the work area and pumps will actively pass the water through one or more pipes routed

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around the outside of the work area and discharge into the stream below the dam.

4. *Removal of sediment.* Excavation will be performed using track-mounted excavators located within the impoundment, or with larger mobile cranes working from the access roads above the impoundments. Stable pads will be constructed for equipment working in the impoundment.
5. *Stabilization of stockpiling.* Excavated sediment will be loaded into large-capacity off-road trucks that will deliver the material to laydown areas outside the impoundments. The material, which must be clean and non-hazardous, may be temporarily (i.e., no more than 48 hours) stockpiled at laydown areas for eventual loading onto street legal trucks for hauling to the final stockpile area. After the last day of sediment removal, Yuba Water will have 72 business hours to clean-up laydown areas, including removing the last of the sediment. During work, the excavators and trucks must be removed from the impoundment at the end of each shift.
6. *Laydown of sediment.* The laydown area for Log Cabin Diversion Dam will be adjacent to the paved dam access road, which is approximately 0.2-mile from the dam, and consists of a semi-cleared area (i.e., no trees, but covered with non-native low brush and grasses). The land where the laydown area is located is owned by Sierra Pacific Industries and is within the Federal Energy Regulatory Commission (FERC) Project Boundary. The laydown area for Our House Diversion Dam will be located just north of the impoundment on Yuba Water-owned and National Forest Service lands. The laydown area is upland, away from any water.

Excavated sediment will be moved from the transfer areas in street legal trucks to a sediment disposal area at two off-site locations: Site 1 and Site 2. Both sediment disposal areas are generally flat with either minimal or non-native vegetation. Access to the disposal areas is on dirt or gravel roads with adequate space for turn-around by large trucks.

- a. Disposal Site 1 is located at Latitude 39.388097, Longitude -121.136312 within the FERC Project Boundary. Portions of Site 1 are vegetated, though the majority of the vegetation is non-native. Disposal Site 1 is estimated to have the capacity to receive 90,000 cubic yards of sediment.
- b. Disposal Site 2 is estimated to have the capacity to receive 150,000 cubic yards of sediment. There are 2 sub-areas at Disposal Site 2. Disposal Site 2A is located at Latitude 39.4213, Longitude -121.066, while Disposal Site 2B is located at Latitude 39.42696, Longitude -121.066.

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- c. Yuba Water will continue to look for a third sediment disposal site to supplement the two existing sediment disposal sites.

Excavated material will be placed as engineered fill in accordance with generally accepted geotechnical engineering practices. Material will be dumped and spread out in loose lifts not exceeding 12 inches (in.) in depth and compaction will be based on a maximum lift thickness (12 in.) and two passes with a Caterpillar D6 track-type tractor or equivalent. The need for ground surface preparation prior to material placement, such as stripping and grubbing of existing vegetation, excavation of benches into sloping ground, and subsurface and surface drainage, will be determined by Yuba Water after the material volume is known and the specific sediment disposal area is selected for stockpiling. The final stockpile dimensions will also be dependent on the volume of material excavated. The stockpile slope inclinations must not exceed 2 to 1 (horizontal to vertical). Silt fencing must be installed at the perimeter of the stockpile area to mitigate the potential for migration of sediment. At the completion of the stockpiling, the surface of the stockpile must be compacted and hydro-seeded for long term erosion control. The number of round trips between the impoundments and the sediment disposal areas will depend on the amount of material to be excavated.

7. *Demobilization.* Once sediment removal is complete, the work area will be demobilized by removing all equipment from the site (including the laydown areas); restoring minimum flow by gravity through the impoundment to the fish release outlet valve; removing sediment control measures within the impoundment; and removing all water control (diversion) measures. The site must essentially be returned to its original state (except for the impoundment) at the end of excavation. Prior to exiting the site, the onsite biologist will perform an inspection for invasive species. All visible soil, animal remnants, or any other signs of invasives on vehicles and equipment will be removed. All disturbed areas within the disposal sites will be stabilized with industry standard best management practices (BMPs) to reduce erosion potential. Planting and/or seeding with native species, sterile seed mix, mulching, and use of non-erodible materials such as coconut fiber matting are potential methods for stabilization.

Urgent Activities

In the event of the need for urgent activities outside the defined work period described in measure 7.1, Yuba Water will follow the terms of this ITP. The urgent activities will follow those steps described under Mechanical Removal of Sediment above.

Activities that could be considered as urgent include, but are not limited to; FERC requirements related to sediment, urgent equipment or infrastructure upgrades such as

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cracks or leaks to pipes, malfunctioning gates or valves, or immediate response to deficiencies identified during an inspection.

Fish Release Outlets Modifications at Our House and Log Cabin Diversion Dams

Yuba Water proposes to change minimum flows on the Middle Yuba River downstream of Our House Diversion Dam from the requirement in the existing license of 30–50 cfs to 40–120 cfs, and to change minimum flows on Oregon Creek downstream of Log Cabin Diversion Dam from the requirement in the existing license of 8–12 cfs to 6–43 cfs. The proposed flows will exceed the capabilities of the existing fish release outlets (i.e., maximum existing valve capacities are 59 cfs at Our House Diversion Dam and 18 cfs at Log Cabin Diversion Dam). Yuba Water proposes to increase the capacity at each of these outlets to accommodate pending new license flow requirements.

At Our House Diversion Dam, a 68-inch (in.) diameter outlet pipe with control valve is proposed to be installed at the same invert elevation as the existing fish release outlet and is expected to result in an outlet capacity of 611 cfs at minimum head (i.e., upstream water level at tunnel invert elevation of 2015.0 ft). At Log Cabin Diversion Dam, a 38-in. diameter outlet pipe with control valve is proposed to be installed at the same invert elevation as the existing fish release outlet and is expected to result in an outlet capacity of 106 cfs at minimum head (i.e., upstream water level at tunnel invert elevation of 1952.0 ft). The existing fish release outlets at Our House and Log Cabin Diversion Dams will remain in place and be able to release at the existing capacities (i.e., 59 and 18 cfs, respectively). The new fish release outlets at the dams will not affect the existing low-level outlets at the dams.

If possible, the work will occur during a mechanical sediment removal event. Otherwise, the work will occur in late summer (i.e., after September 15) when the minimum flow release from each dam is generally low and equal to inflow into the impoundment. Yuba Water will slowly open the low-level outlet to allow the water surface elevation in the impoundment to drop below the intake to the fish release outlet. A crane will be brought onsite and used to install temporary construction platforms and needed formwork for concrete modifications and installation of the new civil work. A new upsized fish release pipe and associated valve system will be installed at each facility, with the centerline of the new pipe at the same centerline elevation as the existing fish release outlet (i.e., no disturbance to the existing fish release outlet). The concrete facilities needed at the inlets and outlets of the new fish release outlets will be similar to those for the existing fish release outlets, upsized for the larger pipes accordingly. The penetration through the dams for the new fish release outlets will be achieved by coring multiple small diameter overlapping bores through the dam to form a circular opening large enough to accommodate the new outlet pipe and associated localized structural reinforcement rebar and plating. At the new fish release inlets, conical transition and stop-log slots will be installed and valve support platforms and valve stem guides will be constructed at the outlets.

At the Our House and Log Cabin Diversion Dam sites, typical heavy construction equipment will include a crane, a concrete coring machine, air compressors, dump trucks, heavy-duty

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trucks, a floating barge, and miscellaneous equipment. Smaller equipment will include hoists and platforms, scaffolding, concrete placing and drilling equipment, a welding machine, and other miscellaneous equipment customary to the electrical, mechanical, and structural crafts.

No borrow areas are anticipated to be required because the work does not entail significant earthwork. For construction at the Log Cabin Dam, it is expected that the available space on the access roads to the dam areas will be sufficient for laydown and staging of materials and equipment. For construction at the Our House Dam, it is expected that the available space to the northeast, adjacent to the river-right abutment to the dam will be sufficient for laydown and staging of materials and equipment. For both sites, all work will be confined to the dam outlet area and immediate vicinity. No undisturbed areas are expected to be disturbed as a result of the work at either site.

Lohman Ridge Diversion Tunnel Intake Modifications

Yuba Water proposes to periodically close the Lohman Ridge Diversion Tunnel on the Middle Yuba River. There is an existing gate on the tunnel intake, but it is not appropriate for closing and opening the tunnel during high flows. Yuba Water proposes to replace the gate with a more efficient gate structure.

Inlet modifications necessary to add a new regulating gate and relocate the existing bulkhead gate will require the following activities:

- Extending the deck and approach walls of the existing inlet upstream 4 to 5 feet.
- Constructing a hoist deck to achieve gate and bulkhead lift clearances.
- Modifying the existing bulkhead slot to accommodate a regulating gate.
- Constructing a new bulkhead slot within the new inlet extension.
- Constructing a new trash rack and debris rake at the front of the extended inlet.

The inlet extension will be constructed much like the existing inlet (i.e., made of concrete). Based on using a screw-drive for regulating the gate and a wire rope hoist for the bulkhead gate, both hoists will be located on a raised platform approximately 17 feet above the inlet deck elevation or approximately 5 to 6 feet above the current upper access road elevation. Locating the hoists at this elevation allows for both gates to be lifted fully above the current deck for maintenance and inspection. A debris rake will be added to the inlet deck just above the trash rack.

All work will occur within the proposed FERC Project Boundary, where temporary facilities and laydown/staging locations are available adjacent to the site. If possible, the work will occur during a mechanical sediment removal at the Our House Diversion Dam. Otherwise, it will occur in late summer when the minimum flow releases are low and equal to inflow into the impoundment. Yuba Water will slowly open the low-level outlet to allow the water surface elevation in the impoundment to drop below the intake to the diversion tunnel. A crane will be

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brought on-site and used to install temporary construction platforms and needed formwork for concrete modifications and installation of the new infrastructure elements. A new inlet control gate and debris rake will be installed. Penetrations through the existing tunnel inlet deck for the new gate and debris rack will be developed using concrete drilling and cutting tools. Mechanical and electrical control devices will be installed on the tunnel inlet deck.

At the Lohman Ridge Diversion Tunnel site, heavy construction equipment will include an excavator (backhoe), an air compressor, a heavy-duty truck, a truck-mounted crane, and miscellaneous equipment. Smaller equipment will include hoists and platforms, concrete placing and drilling equipment, a welding machine, and other miscellaneous equipment customary to the electrical, mechanical, and structural crafts.

No borrow areas are expected to be required because the work does not entail significant earthwork. It is expected that the available space within the tunnel intake area will be sufficient for laydown and staging of materials and equipment. All work will be confined to the tunnel intake and immediate vicinity. No undisturbed areas are expected to be disturbed as a result of the work.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u>
1. Foothill yellow-legged frog (<i>Rana boylei</i>)	Threatened ³

This species and only this species is the “Covered Species” for the purposes of this ITP.

VII. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include removal and replacement of tunnel intakes; demolition and construction of fish release outlets; use of existing temporary access routes; excavation and sediment removal; and installation and removal of water diversion (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as water diversion and dewatering; capture and relocation; and potential crushing of individuals during equipment operations, tree, and sediment removal. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of “pursue, catch, capture, or attempt to do so” of the Covered Species during capture and relocation; exposure to suspended sediments; and entrapment in temporary water diversion system. The areas where authorized take of the Covered Species is expected to occur include areas at Our House and Log Cabin Diversion

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

Dams and at Disposal Site 2 (collectively, the Project Area).

Table S-1 summarizes the calculated take by activity and the requested take coverage by activity.

Table S-1. Take Summary by Activity and Coverage During Each Activity I

Activity	Take Mechanism	Number of Potential Take	Request for Coverage
Mechanical Removal (including Disposal Site 2 and urgent maintenance)	Relocation	1000	1000
	Mortality	10	10
Fish Release Outlet Modifications	Relocation	Included with mechanical removal estimates	
	Mortality		
Lohman Ridge Tunnel	Relocation	Included with mechanical removal estimates	
	Mortality		
Sediment Passage	Increased turbidity	0	0
Blockage of Outlets	Increased turbidity	0	0

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Table S-2 summarizes the calculated take by activity and the requested take coverage throughout the term of this ITP.

Table S-2. Take Summary by Activity and Coverage Over the Life of the Permit (20-years)

Activity	Take Mechanism	Number of Potential Take	Request for Coverage
Mechanical Removal (including Disposal Site 2 and urgent maintenance)	Relocation	3000	3000
	Mortality	30	30
Fish Release Outlet Modifications	Relocation	Included with mechanical removal estimates	
	Mortality		
Lohman Ridge Tunnel	Relocation	Included with mechanical removal estimates	
	Mortality		
Sediment Passage	Increased turbidity	0	0
Blockage of Outlets	Increased turbidity	0	0

The Project is not expected to cause the permanent loss of any habitat for the Covered Species. Implementation of this Project is expected to cause the temporary loss of up to 13.67 acres of habitat for each year the Project is implemented (3.57 acres at Log Cabin Diversion and 10.10 acres at Our House Diversion), for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include: long-term effects due to increased pollution from traffic and human activity; displacement from preferred habitat; increased competition for food and space; increased vulnerability to predation; stress resulting from noise and vibrations, stress associated with capture and relocation.

VIII. Incidental Take Authorization of Covered Species:

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

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IX. Conditions of Approval:

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration (SCH No.: 2019129049) adopted by Yuba County Water Agency on January 21, 2020 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. EPIMS-YUB-49101-R2 for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
5. **General Provisions:**
 - 5.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative’s name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 5.2. Designated Biologist(s) and Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological

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Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.

5.2.1. Biological Monitors. The Designated Biologist(s) may authorize Biological Monitor(s) to assist in ITP compliance efforts, under the direct supervision of the Designated Biologist. The Designated Biologist(s) is responsible for assuring that any Biological Monitor(s) working under their supervisor is knowledgeable and experienced in the biology and natural history of the Covered Species, the Conditions of Approval of this ITP, the definition of "take," and in the implementation of standard avoidance and minimization measures used on construction projects in Covered Species' habitat. Permittee shall provide a description of the Biological Monitor duties for CDFW approval prior to the start of Covered Activities.

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

5.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties

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for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.

- 5.5. Construction Monitoring Documentation.** The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.
- 5.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 5.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 5.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 5.9. Delineation of Property Boundaries.** Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities.
- 5.10. Delineation of Habitat and Project Boundary.** Permittee shall clearly delineate the active Project Boundary to exclude access to Covered Species Habitat that

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is not necessary to complete active or pending Covered Activities. Where feasible, this will be done with a combination of posted signs, posting stakes, flags, and/or rope or cord, and shall place fencing as necessary to minimize the disturbance of Covered Species Habitat to ensure the Project boundary is definable.

- 5.11. Project Access.** Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 5.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in of this ITP.
- 5.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

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5.16. Additional Disposal Sites. If the Permittee identifies another sediment disposal site during the length of this Permit, Permittee must submit to CDFW for review and approval all relevant disposal site information including, but not limited to, the location, vegetation and hydrology maps, and the nearest FYLF sighting.

5.17. Impacts to Habitat. No take beyond the temporary loss of 13.67 acres of habitat for the Covered species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts.

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. In the event of urgent maintenance requiring immediate action, the Designated Representative may request a variance from the 14-day notification requirement by contacting CDFW to obtain written approval of the variance, two business days after commencing the activity.

6.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.

6.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of twice per day during periods of inactivity and after Covered Activities are completed. The Designated Biologist shall conduct compliance inspections to:

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

The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance

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inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.

- 6.4. Monthly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative email address is R2CESA@wildlife.ca.gov and Headquarters CESA Program email is CESA@wildlife.ca.gov. Monthly compliance reports are only required to be submitted when Covered Activities are occurring. 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.
- 6.5. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year, beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 6.6. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation, and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.7. Final Mitigation Report.** No later than 45 calendar days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation

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Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

6.8. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by contacting the Regional Office at (916) 358-2930 and R2CESA@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within 2 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.

6.9. Enhancement Site Land Use Change Notification. During the term of this Permit, Permittee shall notify CDFW at least 90 calendar days prior to any change in land use, ownership, or management on the parcel(s) comprising or containing the 3.44 acres of planned enhancement activities. The notification shall include all applicable information regarding the proposed land use, ownership, or management changes, a summary of Covered Activities completed to date, and a summary of Covered Activities that remain to be completed during the term of this Permit. Once the proposed land use, ownership, or management changes have been approved by CDFW, Covered Activities shall cease, and the Permittee shall meet and confer with CDFW within 30 days to determine whether additional measures are needed to compensate for any required enhancement that has not been completed or that will no longer effectively fulfill the purposes of this Permit. Permittee shall not resume any Covered Activities until CDFW has given written approval that the Project remains in compliance with CESA or the Permit has been amended to include newly required measures.

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7. Take Minimization Measures:

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

7.1. Work Period. Work within Covered Species habitat shall be confined to the period for each Covered Activities:

- a. For Sediment Passage– October 1 to March 21.
- b. For Blockage Outlets - October 1 to April 10.
- c. For Mechanical Removal of Sediment, Fish Release Outlets Modifications, and the Lohman Ridge Diversion Tunnel Intake Modifications - September 15 to November 15. CDFW may, through written approval, extend the work window for a number of weeks if weather conditions remain dry.

7.2. Biologist On-site Daily. The Designated Biologist shall be on-site daily while construction and/or surface-disturbing activities are taking place to minimize impacts to the Covered Species; to check for compliance with all Permit measures; to check all exclusion zones; and to ensure fencing is intact, and that human activities are restricted to outside of protective zones. The Designated Biologist shall prepare written records summarizing: oversight activities and compliance inspections, observations of Covered Species, survey results, and monitoring activities required by this Permit. In addition, Biological Monitor(s) will survey the area each morning prior to the start of work activities and again at the end of the workday for the duration of the Project.

7.3. Daily Briefing. Every day, prior to beginning construction where equipment or material may come in contact with water, gravel bars, riparian areas, and any Covered Species or their habitat, the Designated Biologist shall brief equipment operators (daily) about site-specific protective and avoidance and minimization measures.

7.4. Relocation. Covered Species shall be relocated out of the Project Area both prior to and during Covered Activities per the CDFW approved 2021 Aquatic Vertebrate Relocation and Exclusion Plan (Attachment 3). If Covered Species are found during Covered Activities, a biologist identified in Attachment 3, shall capture and move them out of harm’s way, where no work will occur.

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- 7.5. Invasive Species.** Permittee shall conduct Project activities in a manner that prevents the introduction, transfer and spread of aquatic, riparian, and terrestrial invasive species from one work site and/or water body to another. Prevention BMP's and guidelines for invasive plants can be found of the California Invasive Plant Council's website at: <http://www.cal-ipc.org/ip/prevention/index.pho>. For invasive mussels and aquatic species can be found at the Strop Aquatic Hitchhikers website: <http://www.protectyourwaters.net/>. Permittee shall notify the Department immediately if an invasive species not previously known to occur within the work site is discovered during work activities by contacting the CDFW Invasive Species Program by email at Invasives@wildlife.ca.gov.
- 7.6. Gear and Equipment Decontamination.** Prior to entering the stream or initiating any aquatic species removal, all gear and equipment will be decontaminated in a designated location where runoff can be contained and not allowed to pass into water courses and other sensitive habitat areas.
- 7.7. No Equipment in Flowing Water.** Excluding the installation and removal of the cofferdam/diversion bypass pump system, no equipment shall operate, or any excavation take place, in the portion of the stream where flowing water is present. Any equipment or vehicles driven and/or operated within or adjacent to the stream shall be checked and maintained daily to prevent leaks of materials that could be deleterious to aquatic and terrestrial life or riparian habitat.
- 7.8. Covered Species - Vegetation Disposal.** If Covered Species are found in the Project Area, vegetation removed shall be placed directly into a disposal vehicle and removed from the site. Vegetation shall not be piled up on the ground unless it is later transferred, piece by piece, under the direct supervision of the Designated Biologist.
- 7.9. Covered Species Injury.** If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition **Notification of Take or Injury** in section **Monitoring, Notification and Reporting Provisions** of this Permit. Notification shall include the name of the facility where the animal was taken.
- 7.10. Mortality or Serious Injury of Covered Species.** If mortality or serious injury (i.e., compromising survival in the wild) during relocation exceeds more than a total

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of five Covered Species per activity, capturing efforts shall be stopped and the Permittee shall immediately consult with CDFW. Additionally, the maximum allowed lethal take over the term of the Permit is 30 Covered Species.

7.11. Night Work. No night work is allowed under this incidental take permit.

7.12. Soil Stockpiles. Permittee shall place stockpiles where soil will not pass into potential Covered Species habitat; nor shall it pass into any other “Waters of the State” in accordance with Fish and Game Code 5650 et seq. Permittee shall use appropriate BMPs to protect stockpiles and prevent erosion.

8. Habitat Restoration and Enhancement:

CDFW has determined that restoration, enhancement and monitoring of Covered Species and their 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, and the extent to which the Covered Activities will impact the habitat. CDFW has determined that the Permittee shall do all of the following to comply with this requirement:

8.1. Restoration and Enhancement Plan. The Permittee shall submit to CDFW, within 90 days from the effective date of this ITP, a detailed Restoration and Enhancement Plan for review and approval. At a minimum, the Plan shall include the following:

- Invasive species removal (American bullfrog, *Lithobates catesbeianus*) each year throughout the term of the permit.
- Visual encounter surveys at six different sites not directly associated with proposed activities. The visual encounter surveys shall occur every other year for the first five years, and every three years for the remainder of the term of the permit. If the new FERC license for the Yuba River Development Project (P-2246) is issued during the term of the ITP, timing for these surveys may be updated, through written approval from CDFW, to follow the FERC requirements set within the new FERC license. If any listed, rare, or special status species are detected during survey efforts, the Permittee shall submit CNDDDB Field Survey Forms to CDFW in the manner described at the CNDDDB website (<https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>) within 30 days after visual encounter surveys have concluded for the year. Copies of such submittals shall also be submitted to the CDFW regional office as specified below.
- A timeline of when each activity will occur throughout the life of the Permit.

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- A cumulative total of the restoration acreage, showing the restoration or uplift of the 13.67 acres that will occur.
- A description of the location and enhancement activities planned for the 3.44 acres of FYLF habitat enhancements. Suitable habitat shall be maintained and improved, including thinning and removal of vegetation, targeting Himalayan blackberry (*Rubus armeniacus*), which shall occur in targeted areas of the impoundment edges at both diversion dams. At a minimum, the enhancement portion of the restoration and enhancement plan shall include: (a) a description of the existing physical conditions of the proposed enhancement site, including the water resources and habitat types, and a map that identifies the location of the site; (b) a plan for the preparation of the restoration site, which may include the removal of nonnative plant species, authorized invasive animal species, and non-wetland/riparian species; (c) a local California native plant palette; (d) a planting plan including monitoring and maintenance measures and a timeline; (e) an irrigation plan; (f) procedures to ensure that nonnative plants are not introduced or allowed to sustain within the enhancement site and a nonnative plant removal plan; and (g) success standards with contingency measures.

8.2. Cost Estimates. Restoration and enhancement of Covered Species habitat is estimated at \$1,580,000 (Attachment 4), as described in Condition **Restoration and Enhancement Plan** in section **Habitat Restoration and Enhancement** of this ITP.

9. Security:

The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition **Restoration and Enhancement Plan** in section **Habitat Restoration and Enhancement** that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

9.1. Security Amount. The Security shall be in the amount of **\$1,580,000** or in the amount identified in Condition **Cost Estimates** in section **Habitat Restoration and Enhancement** of this ITP specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition **Cost Estimates** in section **Habitat Restoration and Enhancement** of this ITP, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.

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- 9.2. Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 9.3. Security Timeline.** The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 9.4. Security Holder.** The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 9.5. Security Transmittal.** Permittee shall transmit security to CDFW by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.
- 9.6. Security Drawing.** The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 9.7. Security Release.** The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
- Restoration Plan Compliance
 - Timely submission of all required reports.

Even if Security is provided, the Permittee must submit the Restoration Plan required in Condition of Approval, Restoration Plan no later than 90 days from the effective date of the ITP and complete all restoration activities described in the Restoration Plan by the end of the Term.

X. Amendment:

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

XI. Stop-Work Order:

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing

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

XII. Liability:

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

XIII. Compliance with Other Laws:

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

XIV. Notices:

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2025-026-02) in a cover letter and on any other associated documents.

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Original cover with attachment(s) to:

Morgan Kilgour, Regional Manager
California Department of Fish and Wildlife
1701 Nimbus Road
Rancho Cordova, CA 95670
(916) 212-1268
Morgan.Kilgour@wildlife.ca.gov

and a copy to:

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

North Central Region CESA Desk
California Department of Fish and Wildlife
1701 Nimbus Road
Rancho Cordova, CA 95670
(916) 358-2900
R2CESA@wildlife.ca.gov

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

North Central Region CESA Desk
California Department of Fish and Wildlife
1701 Nimbus Road
Rancho Cordova, CA 95670
(916) 358-2900
R2CESA@wildlife.ca.gov

XV. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, Yuba County Water Agency. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Log Cabin and Our House Diversion Dams Sediment Management Plan, (SCH No.: 2019129049) dated January 21, 2020, that the Yuba County Water Agency adopted for the Log Cabin and Our House Diversion Dams Sediment Management Plan on January 21, 2020. At the time

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the lead agency adopted the MND and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

XVI. Findings Pursuant to CESA:

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. (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, Log Cabin and Our House Diversion Dams Sediment Management Plan MND, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) establishment of avoidance zones; (2) worker education; (3) habitat enhancement and restoration; (4) Enhancement Site Land Use Change Notification; and (5) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area and the extent to which the Covered Activities will impact the habitat. Based on this evaluation, CDFW determined that the enhancement of 3.44 acres of habitat, removal of invasives species, and minimization, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;

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

XVII. Attachments:

ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	CDFW approved 2021 Aquatic Vertebrate Relocation and Exclusion Plan
ATTACHMENT 4	Letter of Credit Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 2/11/2026

DocuSigned by:

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Morgan Kilgour, Regional Manager
 North Central Region (Region 2)

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