



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

California Endangered Species Act
Incidental Take Permit No. 2081-2024-047-03

**Napa River/Napa Creek Flood Protection Project –
Floodwalls North of the Bypass**

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: Napa County Flood Control and Water District

Principal Officer and Contact Person: Jeremy Sarrow, Watershed and Flood Control Operations Manager, (707) 259-8204, Jeremy.Sarrow@countyofnapa.org

Mailing Address: 804 First Street, Napa, California 94559

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, 2030.**

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 7.10 of this ITP.

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

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

III. Project Location:

The Napa River/Napa Creek Flood Protection Project – Floodwalls North of the Bypass (Project) is located along the Napa River and Napa Creek in the City and County of Napa. The Project site is generally bounded by high density residential and commercial development to the east and west and the Napa River and associated riparian corridor to the north and south. The Project is located at the below three locations within Townships 5N and 6N, Range 4W, Sections 2, 3, 10, 34, and 35 of the Napa U.S. Geological Survey 7.5-minute quadrangle map (Figure 1):

- Dry Bypass, located along Napa Creek, within and adjacent to the Oxbow Commons between Soscol Avenue and the Napa Valley Railroad at approximately 38.301509°N, 122.283898°W (Figure 2).
- Lincoln Avenue Bridge, located along the Napa River, between the intersections of Lincoln Avenue and Tonbridge Way to the west and Lincoln Avenue and Silverado Trail to the east at approximately 38.310433°N, 122.278000°W (Figure 3).
- Napa River Floodwalls, on the right (west) bank of the Napa River between approximately 38.319653°N, 122.282540°W at the upstream end and 38.305477°N, 122.282658°W at the downstream end, then a gap, and another section along the Dry Bypass and Napa Creek between approximately 38.302629°N, 122.283176°W and 38.300176°N, 122.285343°W (Figure 1).

IV. Project Description:

The Project includes the development of 19.76 acres of developed and undeveloped land into various flood control and associated structures. Project activities include the construction of floodwalls, an outfall, and associated structures at the Dry Bypass; the installation of rock scour protection around existing Lincoln Avenue Bridge (bridge) piles; the installation and removal of temporary work and access structures at the bridge; and the construction of floodwalls and portions of an adjacent pedestrian trail, including installation of gates and replacement of eight outfalls and other pipes at the Napa River Floodwalls, as outlined below. Dewatering and in-water work will occur at the Dry Bypass and Lincoln Avenue Bridge, respectively. No pile driving will occur during the Project.

- 1) Dry Bypass (Figure 2). The upstream existing floodwalls under Soscol Avenue have a gap, which is necessary to allow overland flow to reenter the Napa River through the Dry Bypass. This gap will be closed by building 230 linear feet of floodwalls, as overland flow will decrease significantly due to construction of upstream floodwalls. Floodwalls will be built immediately east and west of the

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Soscol Avenue Bridge, connecting to the northern bridge abutment, and will consist of four-foot to seven-foot-high cement "T" walls with buried supports between 11 and 15 feet wide.

East of the north end of the Soscol Avenue Bridge, between the Soscol Avenue Bridge and the Wine Train Bridge, overland flow currently flows down an upland area which slopes to a gabion weir blocking upstream tidal flow from an unnamed stream within the Dry Bypass. From here, water enters the unnamed stream if it overtops the gabion weir. In addition, three stormwater drainage pipes, two measuring 36 inches in diameter and one measuring 48 inches in diameter, connect and drain into an existing 42-inch diameter pipe leading to the Napa River, while an existing 72-inch diameter pipe drains into the area immediately below the gabion weir.

The Project will remove this drainage system and the gabion weir and replace it with two four-foot-high by four-foot-wide and 70 feet long reinforced concrete box culverts, joined to the existing subsurface drain pipes which direct flow to the Dry Bypass Control Structure. The land surface north of the gabion weir will be graded to direct surface runoff into a cement inlet measuring four feet long and approximately three feet wide. Water will flow from this inlet through the box culverts to the Dry Bypass Control Structure. Sluice gates at the downstream end of the box culverts will connect to the Dry Bypass Control Structure. The Dry Bypass Control Structure will be a cement vault 35 feet in length, varying from 19 to 22 feet in width, and approximately 29 feet in depth. It will have three openings: an upstream opening to the two four-foot high by four-foot-wide reinforced concrete box culverts, and two downstream openings. The first downstream opening will be to a 45-foot-long, five-foot-high by five-foot-wide reinforced concrete box culvert leading from the Dry Bypass Control Structure to the unnamed stream tributary, with an approximately 14-foot-wide and 6-foot-long trapezoidal concrete wing wall and flap gate at the outlet of the culvert. The second downstream opening will be to a 64-foot-long, 42-inch diameter reinforced concrete pipe connecting the Dry Bypass Control Structure and existing 42-inch diameter pipe leading to the Napa River, with one manhole.

Construction will require dewatering and the installation of temporary sheet piles around the area of excavation.

- 2) Lincoln Avenue Bridge (Figure 3). Work at the Lincoln Avenue Bridge is limited to the installation of rock scour protection around existing bridge piles and the installation and removal of temporary work and access structures, including in-water work. Dewatering will not occur at this location.

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Initially, the bank work area will be prepared utilizing temporary Best Management Practices (BMPs) to control erosion and sedimentation, including the installation of a silt fence at the limits of work. Then the minimum amount of riverbank vegetation necessary to complete the work will be cleared.

Temporary access ramps measuring approximately 120 feet long and up to 40 feet wide will be established on the western end of the Lincoln Avenue Bridge, utilizing approximately 300 tons of rock scour protection material.

Turbidity curtains will be placed on both the upstream and downstream sides of the work area, due to the tidal nature of the location. Temporary work platforms constructed of rock protection materials or supersacks topped with crane mats, measuring 130 feet long parallel to the flow of the Napa River and 20 to 25 feet wide, will be placed around each side of the center bridge pile in an orientation that allows river flows and fish passage through the work area. All three piers will be accessed from the two work platforms.

Approximately 2 to 5 feet of depth of existing material adjacent to the existing three piers (approximately 450 cubic yards of material) will be excavated and replaced with approximately 1,560 tons of Class V riprap with a D50 of 18-inches on top of a 6-inch-thick gravel granular filter. The rock scour protection will be placed in the Napa River during the dry season (June 15 to October 15), in one work window.

After the rock scour protection is placed, the access platforms and access ramps will be removed and the banks restored. Lastly, BMPs including hydroseed, mulch, and biodegradable erosion control fabric will be installed, and native riparian vegetation will be planted.

- 3) Napa River Floodwalls (Figure 1). Floodwalls will be constructed on the west bank of the Napa River beginning at the River Terrace Inn and continuing north toward Lincoln Avenue, starting at the high ground near the edge of the River Terrace Inn property.

A new 10-foot-wide recreational trail will be constructed on the water side of the floodwall starting at the River Terrace Inn and running north to Wall Street, where the trail will then cross the wall to the land side through a 15-foot-wide pedestrian gate. Continuing north, the floodwall alignment will move to the land side of the Ace & Vine and Napa River Pet Hospital businesses. The 10-foot-wide recreational trail will run on the land side of the floodwall in this area. The trail will then run east along the north side of Lincoln Avenue, connecting to a new 10-foot-wide recreation trail on the water side of the floodwall by crossing the wall through a new 15 feet wide pedestrian and emergency

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access gate. Two approximately 20-foot-wide swing gates and signage will be installed in the floodwall at the existing driveway locations on Lincoln Avenue to allow access to the businesses on the other side of the wall.

The floodwall will tie into and terminate at the south side of the western parapet wall of the Lincoln Avenue Bridge. At the bridge, the floodwall will tie into the north side of the western parapet wall and continue north following the existing trail on the water side of businesses and homes. A 15-foot-wide pedestrian and emergency access gate will be installed at the start of the existing Napa River Trailhead access point located just north of the bridge. To make space for the floodwall, the eastern row of trailer vacation rental units closest to the river at the RiverPointe property will be removed. North of the RiverPointe property, floodwall construction will include partially excavating an existing levee in the Lake Park subdivision from the water side, building concrete "T" floodwall in the excavated area, and then filling and compacting the area behind the wall to provide a flat surface at roughly the elevation of the old top of levee. North of the Lake Park subdivision, the floodwall will transition from a concrete "T" wall to a sheet pile "I" wall (sheet pile wall). The sheet pile wall will continue north along the river side of the townhomes on Trout Way, Pike Drive, and Elks Way and tie into high ground on the north side of Elks Way.

The Project will install approximately 810 linear feet of 36-inch diameter welded steel drain pipe on the land side of the floodwall connecting to existing drains. Eight outfall structures and associated pipes, five in the segment south of Lincoln Avenue and three north of Lincoln Avenue, will be replaced to provide for crossing the new floodwall and positive closure devices.

Work at this location is limited to the river bank and associated riparian zone, and in-water work will not occur.

All staging will occur on uplands and construction access will occur from existing surface streets.

The majority of Project activities were previously covered under *Napa River Flood Protection Project ITP No. 2081-2008-014-03*, which expired on December 31, 2014 and included the requirement for restoration of shallow water habitat, which is more fully described in the separate 2001 *Napa River Flood Protection Project Mitigation and Monitoring Plan*, prepared by Jones and Stokes (MMP). The MMP was required by the 1999 *Napa River/Napa Creek Flood Reduction Project Final Supplemental Impact Statement/Environmental Impact Report*, prepared by Design, Community, and Environment. A total of 7.34 acres of permanent impacts and 1.44 acres of

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temporary impacts to Covered Species habitat were completed under the expired ITP. The remaining impacts were reduced through redesign and no additional impacts other than those covered by this current ITP are expected.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ³
1. Longfin smelt (<i>Spirinchus thaleichthys</i>)	Threatened ⁴
2. Delta smelt (<i>Hypomesus transpacificus</i>)	Endangered ⁵

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

VI. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include temporary dewatering of aquatic habitat in the Dry Bypass during one construction season; placement and removal of access ramps, temporary work platforms, and rock scour protection within aquatic habitat at the Lincoln Avenue Bridge; Napa River Floodwalls construction; capturing, handling, and relocating the Covered Species; and surveying for the Covered Species (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 entrainment and impingement of individuals during dewatering, stranding of individuals during dewatering, injury or mortality during in-water work, and temporary and permanent habitat alteration. 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 temporary dewatering, aquatic species rescue operations, and monitoring. Additional indirect impacts may occur due to minor changes in local drainage patterns, reducing water quality due to increased turbidity, inhibiting movement, and potential changes to flow velocity. The areas where authorized take of the Covered Species is expected to occur include: the 0.102-acre work area in the

³Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

⁴See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(2)(E).

⁵See *Id.*, subd. (a)(2)(O).

Dry Bypass and the 0.583-acre in-water work area at the Lincoln Avenue Bridge, totaling 0.685 acre as shown on Figures 2 and 3, within the 19.76-acre Project site as shown in Figures 1, 2, and 3 (collectively, the Project Area).

The Project is expected to cause the permanent loss of 0.044 acre of habitat for the Covered Species, and temporary loss of 0.641 acre of habitat 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: capture and relocation, capture and release for monitoring, harassment resulting from noise and ground vibration during heavy equipment operation, long-term effects due to increased manmade substrate, and increased vulnerability to predation and displacement from preferred habitat.

VII. Incidental Take Authorization of Covered Species:

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

VIII. 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 Environmental Impact Report and Subsequent Environmental Impact Report (SCH No.: 1997044002) certified by the Napa County Flood Control District on May 4, 1999 and March 25, 2025, respectively, as lead agency for the Project

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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 (Notification No. EPIMS-NAP-56103) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- 4. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the *Reinitiation of Formal Consultation on the Napa River/Napa Creek Flood Protection Project Napa County, California; Floodwalls North of Bypass River Mile 15.5 to 17* (No. 2024-0043509) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
- 5. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
- 6. General Provisions:**
 - 6.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 6.2. Designated Biologist(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) using the Biologist Resume Form (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=202869>) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(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

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CDFW approval of the Designated Biologist(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) must be changed.

- 6.3. Designated Biologist Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist in the performance of 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.
- 6.4. 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 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.
- 6.5. Construction Monitoring Documentation.** The Designated Biologist(s) shall maintain construction-monitoring documentation on-site in either hard copy

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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 Area upon request by CDFW.

- 6.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 6.8. Erosion Control 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 the Project Area.
- 6.9. 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.
- 6.10. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.11. 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. 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.

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- 6.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.
- 6.13. 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.
- 6.14. 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.
- 6.15. 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.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Geographic Information Systems Data Files.** Before starting Covered Activities, the Permittee shall provide CDFW with Geographic Information Systems (GIS) data files for permanent and temporary habitat impact areas authorized under this ITP for the Covered Species. The Permittee shall provide any additional GIS data files for the Project or related Covered Species features within 30 days of CDFW's request. All GIS data files shall be provided in a format acceptable to CDFW.
- 7.2. Notification Before Commencement.** The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.3. Notification of Non-Compliance.** The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any

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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.

7.4. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur at the Dry Bypass and Lincoln Avenue Bridge, and weekly when Covered Activities occur elsewhere throughout the Project Area, unless otherwise approved in writing by CDFW. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after dewatering is completed. The Designated Biologist shall conduct compliance inspections to:

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

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

7.5. Reporting of Habitat Impacts. Permittee shall monitor, calculate, and record in an electronic ledger the total amount of permanent and temporary impacts to Covered Species habitat and shall at a minimum account for these impacts based upon habitat type.

7.6. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (707) 428-2002. 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

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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.

If any Covered Species are killed, the individuals shall be preserved via freezing or placing in a container with 10 percent formalin solution. Information on time and exact location of any incidental take, method of take, length of time from death to preservation, water temperature, and any other relevant information shall be recorded in writing. Permittee shall contact the CDFW regional representative for instructions on transmitting preserved individuals.

- 7.7. Monthly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.3, 7.4, 7.5, and 7.6 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Nick Wagner (Nicholas.Wagner@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 7.8. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.7; (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 temporary and permanent

disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.

7.9. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.

7.10. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

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

8.1. Work Period Restricted to Dry Season. Work within aquatic habitat in the Project Area shall be limited to the period from June 15 to October 15 (Dry Season).

8.2. Work Period in Dry Weather Only. Project work shall be restricted to dry weather, as allowed during the work period specified in Condition of Approval 8.1. Permittee shall monitor the National Weather Service 72-hour forecasted precipitation. All necessary erosion control measures shall be implemented prior to the onset of precipitation. Construction activities shall cease when the National Weather Service 24-hour weather forecast indicates a 30 percent chance or higher of 0.25-inch or more of precipitation, unless otherwise approved in writing by CDFW. (For a weekly forecast see <https://www.weather.gov/> and for a 48-hour percent precipitation forecast

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<https://graphical.weather.gov/sectors/northcalifornia.php>, click on QPF in Amount of Precipitation row, toggle +/- 12 hours). Construction equipment and materials shall be removed if inundation is likely. After any storm event, the Permittee shall inspect all sites currently under construction and all sites scheduled to begin construction within the next 72 hours for erosion and sediment problems and take corrective action as needed. Seventy-two-hour weather forecasts from the National Weather Service shall be consulted and work shall not resume until runoff ceases and there is less than a 30 percent forecast for precipitation for the following 24-hour period. Weather forecasts shall be documented upon request by CDFW.

- 8.3. Time of Day Work Restriction.** Permittee shall begin Covered Activities at least 30 minutes after sunrise and terminate all Covered Activities at least 30 minutes before sunset, unless otherwise approved in writing by CDFW. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for determining when Covered Activities shall terminate and resume.
- 8.4. Erosion Control.** At no time shall silt-laden runoff be allowed to enter a river or stream or directed to where it may enter a river, stream, or lake. All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Erosion control measures shall be utilized throughout all phases of operation where sediment runoff from exposed slopes threatens to enter a river or stream. Erosion control measures, such as, silt fences, straw hay bales, gravel or rock lined ditches, water check bars, and broadcasted straw shall be used wherever sediment has the potential to leave the work site and enter the river or stream. The Designated Biologist(s) shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately.
- 8.5. Spoil Pile Stabilization.** Soil stockpiles shall be placed where soil cannot erode or wash into a river or stream. Permittee shall stabilize active and non-active spoil piles with native grass hydro-seed, erosion control fabric, straw, or other biodegradable material by October 15 of each year of the Project. Plastic and other synthetic materials shall not be used. Fiber rolls shall be placed around the perimeter of non-active spoil piles, and slope breaks shall be utilized on the slopes of non-active spoil piles. Active spoil piles shall be covered/stabilized adequately when rainy conditions are evident (see Condition of Approval 8.2) or at any time when spoil material could enter a river or stream. No spoil shall be placed on the river or stream side. Excavated spoil shall be removed to an area where the sediment will not deliver to a river or stream.

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- 8.6. Prevention of Spread of Invasive Species.** Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention Best Management Practices (BMPs) and guidelines for invasive plants can be found on the California Invasive Plant Council's (Cal-IPC) website at: <https://www.cal-ipc.org/solutions/prevention/> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <https://stopaquatic hitchhikers.org/>.
- 8.7. Work in Isolation from Flowing Water.** All work shall be conducted in isolation from flowing water, with the exception of in-water work at the Lincoln Avenue Bridge as described in the Project Description above. The work area at the Dry Bypass shall be dewatered if water is present pursuant to the Covered Species Dewatering and Rescue Plan approved in advance and in writing by CDFW as specified in this ITP (see Condition of Approval 8.9).
- 8.8. Inspections for Covered Species.** Before the start of Covered Activities, the Designated Biologist shall inspect all areas to be dewatered at the Dry Bypass and any areas where in-water work will occur at the Lincoln Avenue Bridge for any Covered Species. If found, Covered Species shall be removed by the Designated Biologist and relocated to a safe location (see Condition of Approval 8.9). Dewatering shall be limited to occurring at the Dry Bypass and in-water work shall be limited to occurring at the Lincoln Avenue Bridge.
- 8.9. Covered Species Dewatering and Rescue Plan (Dry Bypass Only).** Dewatering may only occur at the Dry Bypass. If water is present at the Dry Bypass, then the Permittee shall develop a Dewatering and Species Capture and Relocation Plan for CDFW review and acceptance at least 30 days prior to the start of the Project. The plan shall include design plans and/or a figure indicating the location of the cofferdams and clear water diversion system, including location of the pump, sediment settling device, and reentry of water to the channel. Cofferdams shall be constructed as close as practicable to the work area. All coffer dam materials shall be removed from the creek upon Project completion within a timely manner. Normal flows shall be restored to the affected stream immediately upon completion of work at that location. If the coffer dams fail, they shall be repaired immediately. Diversion shall be conducted such that water does not scour the channel bed or banks. No other diversion method shall be used without authorization from CDFW. The plan shall also address the capture and relocation of Covered Species that may be present in the dewatered area. Authorization of any other diversion method shall be at the discretion of CDFW.

- a) Cofferdams shall only be closed during low tide events to minimize Covered Species capture and stranding.
- b) Capture methods of Covered Species may include dip nets. All nets shall be made of a soft braded nylon material that is non-abrasive. Mesh sizing shall be matched to species and the life stages likely encountered. Capture and handling of Covered Species shall be minimized and the number of animals captured and moved at any one time shall be limited to the number that can be relocated without stress or injury.
- c) Covered Species shall be processed before other fish species and released as soon as possible during rescue operations. Species name and length data shall be recorded on data sheets, as well as time, date, location, gear type, water temperature, salinity and any other pertinent observations of the Covered Species.
- d) No one may remove any Covered Species, dead or alive, from the site for personal use.
- e) Because of the potential for mortality during rescue, if any Covered Species are killed, the individuals shall be preserved via freezing or placing in a container with 10 percent formalin solution. Information on time and exact location of any incidental take, method of take, length of time from death to preservation, water temperature, and any other relevant information shall be recorded in writing. Permittee shall contact the CDFW regional representative for instructions on transmitting preserved individuals, as required by Condition 7.6.
- f) If any dead fish cannot be positively identified in the field, the Permittee shall bag, label, and deliver the specimen to the previously named CDFW or USFWS laboratory (see above) for positive identification. Frozen fish shall be kept as cold as possible. If identification will not occur on the same day as capture, the fish shall be placed in a freezer. Each bag shall have a waterproof paper tag with date, time, and location caught.
- g) Prior to handling Covered Species, all hands and equipment shall be wetted down with pond water and shall be free of any materials including hand sanitizers, sunscreen, or insect repellent. No Covered Species shall be handled with dry hands or dry equipment.
- h) If live wells or holding facilities will be used during capture and relocation, the following measures shall be implemented:

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- An aeration system shall be used in any live well or other holding facility. The aerator shall be operating prior to placing Covered Species in it to ensure that sufficient oxygen is present during the adjustment period and to minimize the build-up of toxic carbon dioxide in holding waters. The aeration rate and the number of Covered Species in each holding facility shall be managed such that the dissolved oxygen concentration shall be maintained above 6 parts per million.
 - Water from the local collection site shall be used in live wells or other holding facilities during the loading and transport. At no time will chlorinated tap water be used.
 - Live wells or other holding facilities shall be sufficiently sized to minimize stress.
 - Dotted smartweed (*Persicaria punctata*) shall not be placed or allowed to enter live wells or holding facilities.
 - Water temperatures within any live well or other holding facility shall be kept at or below water temperature at the collection site. Temperatures must be managed in such a way as to minimize stress; for example, floating a sealed bag of ice in each container.
- i) Before and after each relocation effort all equipment shall be properly sterilized to ensure it is free of aquatic pathogens or invasive species. Equipment sterilization shall follow prevention Best Management Practices such as those prepared by CDFW's Northern Region, <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=92821&inline>, or other methodology accepted by CDFW in writing.
- j) The pump intake apparatus shall be screened with a fine mesh screen. The screen shall be cleaned as needed. The following National Marine Fisheries Service (NMFS) fish screening requirements shall be implemented:
- A self-cleaning screen shall have at least 2.5 square feet of submerged screen material for each cubic foot per second (450 gallons per minute) of the maximum diversion rate.
 - A screen which is not self-cleaning shall have at least 5 square feet of submerged screen material for each cubic foot per second of the maximum diversion rate.

- Round openings in the screen shall not exceed 3/32-inch diameter, square openings shall not exceed 3/32-inch measured diagonally, and slotted openings shall not exceed 0.069 inches in width.
 - The screen may be constructed of any rigid woven, perforated, or slotted material that provides water passage while physically excluding fish. Screen material shall provide a minimum of 27% open area, but more open area is better. Stainless steel is recommended to minimize corrosion problems.
 - The screen shall be designed to distribute the flow uniformly over the entire screen area. The screen face generally should be parallel to the flow of the stream.
 - The screen shall be cleaned as frequently as necessary to prevent the approach velocity from exceeding 0.4 feet per second. The screen shall be kept in good repair and shall be used whenever water is being pumped. The applicant is advised to consult with NMFS to ensure that all their design criteria are being met.
- k) Once water has been diverted around the work area, the site shall be dewatered to provide an adequately dry work area. Any muddy or otherwise contaminated water shall be pumped to a settling tank, dewatering filter bag, upland area, or other CDFW-approved location prior to re-entering the stream.
- l) The Designated Biologist shall check daily for stranded Covered Species as the water level in the dewatering area drops and until dewatering facilities are removed. All stranded Covered Species in the dewatered areas shall be immediately relocated to the nearest suitable habitat. Capture and relocation shall be conducted in a manner that minimizes stress and injury to captured Covered Species.
- m) After completing the fish rescue, the Designated Biologist shall prepare a brief documentation report. The report shall contain the information required in Condition of Approval 8.9, and information on the personnel conducting the rescue, methods used, number of each species collected and relocated, and an estimate of the survival rate of Covered Species immediately after release. Photographs of the site and rescue operations shall be included. The report shall be provided by the Permittee to CDFW, USFWS, and National Marine Fisheries Service within 30 days of completing the fish rescue.

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n) All cofferdams or temporary diversion dams shall be installed on or after June 15 and removed by October 15 of each year.

8.10 Inspection of Project Equipment. Permittee shall inspect all vehicles, cofferdams, pipes, pumps, tools, waders and boots, and other project related equipment and remove all visible soil/mud, plant materials, and animal remnants prior to entering and exiting the Project Area and/or between each use in different waterbodies.

8.11 Decontamination of Small Project Equipment. Permittee shall decontaminate all tools, waders and boots, and other small equipment that will enter the water prior to entering and exiting the Project Area and/or between each use in different waterbodies to avoid the introduction and transfer of organisms between waterbodies. Permittee shall decontaminate Project gear and equipment utilizing one of three methods: drying, using a hot water soak, or freezing, as appropriate to the type of gear or equipment. For all methods, Permittee shall begin the decontamination process by thoroughly scrubbing equipment, paying close attention to small crevices, such as bootlaces, seams, net corners, etc., with a stiff-bristled brush to remove all organisms. To decontaminate by drying, Permittee shall allow equipment to dry thoroughly (i.e., until there is a complete absence of water), preferably in the sun, for a minimum of 48 hours. To decontaminate using a hot water soak, Permittee shall immerse equipment in 140°F or hotter water and soak for a minimum of 5 minutes. To decontaminate by freezing, Permittee shall place equipment in a freezer 32°F or colder for a minimum of 8 hours. Repeat decontamination is required only if the equipment/clothing is removed from the Project Area, used within a different waterbody, and returned to the Project Area.

8.12 Decontamination of Vehicles and Large Equipment. Permittee shall decontaminate vehicles and other large equipment that will enter the water, which are too large to immerse in a hot water bath by pressure washing with hot water a minimum of 140°F at the point of contact or 155°F at the nozzle, or by using other effective techniques with written approval from CDFW.

8.13 Decontamination Sites. Permittee shall perform decontamination of vehicles, watercraft, and other Project gear and equipment in a designated location where runoff can be contained and not allowed to pass into water bodies and other sensitive habitat areas.

8.14 Temporary Work Pad. Material used to construct the temporary work pad at the Lincoln Avenue Bridge shall consist of clean river run gravel, clean boulders, super sacks filled with clean gravel or rock, or other material

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approved in writing by CDFW. Fill may be topped with a layer of crushed aggregate. If used, aggregate shall be removed after work is completed without allowing any aggregate to fall into the Napa River. Work pad material shall be installed by either: 1) slowly lowering a bucket to the bed or top layer of previously placed material and slowly tipping the bucket, or 2) slowly placing individual pieces of material on the bed or top layer of previously placed material using a crane grapple, excavator bucket with thumb, or similar equipment. **Material shall not be dropped from any height into water.** Work pad material shall be removed individually, piece by piece, using a crane grapple, excavator bucket with thumb, or similar equipment. **Temporary work pad material shall not be scooped from below.** During installation and removal of the work pad, a Designated Biologist shall be on-site to ensure it is installed and removed in a manner that will not trap fish. If water is present where material is to be added, the Designated Biologist shall physically sweep the wetted area in advance of work to ensure fish have left the area prior to material placement or removal. The Designated Biologist shall have the right to halt work at any time if they believe the work is too rapid and is endangering fish or generating excess turbidity.

8.15 Turbidity Minimization During In-Water Work at Lincoln Avenue Bridge.

Permittee shall minimize the effects of turbidity during in-water work at Lincoln Avenue Bridge by implementing the below minimization measures.

- a. Silt Curtain: A silt curtain shall be used as an impermeable barrier typically constructed of a flexible reinforced thermoplastic material. It shall be used to contain the suspended sediment plume generated during in-water work so that the sediments will settle out of suspension within a controlled area. The upper hem shall have a floatation material and the lower hem shall have ballast material. The barrier shall be maintained as needed to prevent sagging, breaking, or overtopping.
- b. Turbidity Monitoring: Turbidity monitoring shall be conducted downstream and upstream of the work area in areas not influenced by turbidity above ambient levels. Location of appropriate reference areas will depend on Project specific conditions and shall be determined with CDFW written approval. Permittee shall record: 1) pre-Project turbidity levels, 2) turbidity levels once-per-week during Project activities, and 3) turbidity levels five days following Project completion. Each sample site shall include data for two bathymetric strata: one from the bottom of the water column and one from the middle of the water column. All data shall be maintained in a log on-site and shall be available for immediate

inspection. Within 10 days of completion of Project activities, the Permittee shall email a copy of the sample log and results to CDFW.

- c. Turbidity Reporting: In the event of a turbidity increase of 15 Nephelometric Turbidity Units (NTUs) above ambient levels, the Permittee shall cease Project activities and notify CDFW by phone or email at the contact information below within 24 hours of the incident. Activities may resume when turbidity levels return to less than 15 NTUs above ambient levels. Within five business days of completion of Project activities, the Permittee shall email a copy of the sample log to CDFW at the contact information below.

8.16 Pile Driving Prohibited: No pile driving shall occur during the Project.

9. Habitat Restoration and Long-Term Management: CDFW has determined that habitat restoration and long-term management are necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.

CDFW has determined that the Permittee has partially met this requirement. Permanent impacts to 19.13 acres and temporary impacts to 1.44 acres of Covered Species habitat were previously permitted under the expired *Napa River Flood Protection Project ITP No. 2081-2008-014-03*, which required the Permittee to: 1) restore/manage at least 61.71 acres of Covered Species habitat in the Napa River or Napa Creek, and 2) maintain 451.4 acres of created Covered Species habitat, as further described in the separate MMP. Restored Covered Species habitat has successfully met all performance standards and managed as described in the MMP, with the exception of the "Presence/Absence of Native Species" performance standard. As part of implementing the Project, the Permittee also reduced flood risk to surrounding residents by restoring and enhancing the more natural path and flow of Napa River and Napa Creek, which created 495.15 acres of Covered Species habitat. However, only 7.344 acres of permanent impacts to Covered Species habitat were completed under the expired ITP due to Project redesign, and additional impacts other than those covered by this current ITP are not expected. Therefore, this previously completed mitigation partially covers the permanent loss of 0.044 acre of habitat for the Covered Species as a result of the Project.

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To fully meet this requirement, pursuant to Conditions of Approval 9.1 to 9.4 the Permittee shall:

- Revise the MMP to include improved maintenance of shallow water habitat to ensure achievement of the “Presence/Absence of Native Species” performance standard within the 451.4 acres of created Covered Species habitat,
- Conduct long-term monitoring and management of the 451.4 acres of created Covered Species habitat outlined in the MMP for a minimum of 10 years, and
- Restore 0.049 acre of temporarily impacted Covered Species habitat (saline emergent wetlands at the Dry Bypass as shown on Figure 2.

The Permittee shall complete the revision of the MMP before starting Covered Activities, or within 60 days of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. The Permittee shall conduct long-term management of the created and restored Covered Species habitat for a minimum of 10 years after the Project is completed. The Permittee shall restore temporarily impacted Covered Species habitat no later than October 31 of the year Project construction at the Dry Bypass is completed.

9.1. Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete restoration and management of the 451.4 acres of Covered Species habitat and restoration of temporarily disturbed Covered Species habitat as follows:

- 9.1.1. Revision of MMP as described in Condition of Approval 9.2, estimated at **\$11,000.**
- 9.1.2. Long-term management funding as described in Condition of Approval 9.3 estimated at \$11,000 annually for 10 years, therefore the estimated cost is **\$110,000.**
- 9.1.3. Restoration of 0.049 acre of temporary impacts to Covered Species habitat as described in Condition of Approval 9.4 estimated at **\$2,916.**
- 9.1.4. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to habitat restoration and management. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract

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administration costs, and costs associated with monitoring the contractor's work, estimated at **\$20,000**.

9.2. Habitat Restoration and Long-Term Management Plan. The Permittee shall revise the MMP for CDFW review within 60 days of the effective date of this ITP. Permittee shall obtain written approval of the revised MMP from CDFW and shall implement the revised MMP in the same calendar year as the completion of Project construction, no later than December 31. The revised MMP shall describe improved maintenance of the 451.4 acres of created shallow water habitat to ensure achievement of the "Presence/Absence of Native Species" performance standard. The revised MMP shall include a minimum of 10 years of annual monitoring and management of the created and restored habitat identified in the MMP as further described below. Monitoring may be required for more than 10 years if performance standards are not met. The MMP shall also detail assurance that access for monitoring and maintenance will be provided by the landowner for the duration of the monitoring period, and a requirement that the landowner not modify the Covered Species habitat mitigation areas. In addition, the Permittee shall provide ongoing reporting to CDFW consistent with the MMP reporting requirements until all habitat restoration, monitoring, and management described in the MMP are completed.

9.2.1. The revised MMP shall describe monitoring and management of habitat for a minimum of 10 years to ensure the long-term viability of the habitat mitigation, which includes a description of how monitoring and management of such habitat will be conducted for the benefit of the Covered Species. Long-term monitoring and management shall be conducted in year zero for baseline and annually for a minimum of 10 years. The MMP shall include preparation of an annual monitoring report from years zero through 10. All reports shall be submitted to CDFW by December 31 of the year in which they are required.

9.2.1.1. *Vegetation Monitoring.* Monitoring reports shall include: (1) a map of habitat management areas, (2) a description of vegetation conditions and information necessary to show compliance with Condition of Approval 9.2 including but not limited if performance standards are being met and an updated aerial image based map, (3) dated photographs starting from year zero (i.e., baseline) showing the status of habitat management areas from several vantage points that are consistently used annually to show annual progress, and (4) a schedule for any future remediation actions.

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9.3. Long-Term Management Funding. Permittee shall ensure that habitat restoration areas are managed, maintained, and monitored for a minimum of ten years as described in this ITP. Permittee shall provide a minimum of ten years of monitoring and management funding for activities outlined in the final CDFW-approved revised MMP consistent with Condition of Approval 9.2.

9.4. Habitat Restoration for Temporary Impacts. Permittee shall restore on-site the 0.049 acre of Covered Species habitat (saline emergent wetlands as shown on Figure 2) that will be temporarily impacted during Dry Bypass construction to pre-Project or better conditions. At least 30 days prior to the initiation of Project construction, the Permittee shall submit a Restoration Plan (Plan) to CDFW for approval to facilitate revegetation and restoration of the 0.049 acre of temporary construction impacts on-site. The Permittee shall obtain CDFW's written approval of the Plan and ensure that the Plan is successfully implemented. The Plan shall identify plant species that will be damaged or removed during Project activities and include detailed specifications for restoring all temporarily impacted areas, such as plant species, seed mixes, and their application methods. For seeding and mulching exposed slopes, the seed blend shall include locally native grass species at a ratio appropriate to the site. The Plan shall also indicate the best time of year for seeding to occur; three (3) years of monitoring, maintenance, and reporting; and performance standards. Permittee is responsible for monitoring and maintaining the restored areas until the Plan performance standards have been met. The Plan may include initial watering of plantings to facilitate adequate growth if necessary, however no additional watering shall occur unless otherwise approved in writing by CDFW. Permittee shall complete seeding/planting as soon as possible, but no later than October 31 of the year of impact. At the discretion of CDFW, all exposed areas where seeding/planting is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding/planting, straw, or mulch as soon as is practical on a date mutually agreed upon.

10. Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

10.1. Security Amount. The Security shall be in the amount of **\$143,916** or in the amount identified in 9.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, sufficient for CDFW or its contractors to complete restoration, long-term management, and monitoring.

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- 10.2. Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline.** The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 10.4. Security Holder.** The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal.** Permittee shall transmit security to CDFW by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.
- 10.6. Security Drawing.** The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release.** The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

For habitat restoration and management

- An on-site inspection conducted by CDFW;
- Written approval by CDFW of the revised MMP;
- Written documentation of successful long-term habitat management and achievement of performance standards, approved in writing by CDFW; and
- Written documentation of successful habitat restoration of temporarily impacted habitat, approved in writing by CDFW;
- Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the revision of the MMP within 60 days of the effective date of this ITP, conduct long-term habitat management for a minimum of 10 years after the Project is completed, and complete restoration of temporarily impacted Covered Species habitat no later than October 31 of the year Project construction at the Dry Bypass is completed.

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CDFW may require the Permittee to provide additional habitat restoration, enhancement, and management and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

IX. Amendment:

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.

X. Stop-Work Order:

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

XI. Liability:

All terms and conditions of this ITP shall be binding upon each Permittee. Notwithstanding California Civil Code section 1431 or any other provision of law, each Permittee shall be jointly and severally liable for performance of all terms, conditions, and obligations of this ITP and shall be jointly and severally liable for any unauthorized take or other violations of this ITP, whether committed by Permittees or

Incidental Take Permit
No. 2081-2024-047-03

NAPA COUNTY FLOOD CONTROL AND WATER DISTRICT
NAPA RIVER/NAPA CREEK FLOOD PROTECTION PROJECT –
FLOODWALLS NORTH OF THE BYPASS

any person acting on behalf of one or more Permittees, including their officers, employees, representatives, agents or contractors and subcontractors. Any failure by one or more Permittees to comply with any term, condition, or obligation herein shall be deemed a failure to comply by all Permittees.

XII. Compliance with Other Laws:

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

XIII. Notices:

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2024-047-03) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Erin Chappell, Regional Manager
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
R3CESA@wildlife.ca.gov

and a copy to:

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

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

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Nick Wagner, Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife – Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2075
Nicholas.Wagner@wildlife.ca.gov

XIV. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, the Napa County Flood Control District. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Environmental Impact Report and Subsequent Environmental Impact Report (SCH No.: 1997044002) dated March 1999 and March 2025, respectively, that the Napa County Flood Control District certified for Napa River/Napa Creek Flood Protection Project – Floodwalls North of the Bypass on May 4, 1999 and March 25, 2025, respectively. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

XV. Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Environmental

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Impact Report and Subsequent Environmental Impact Report, 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) habitat restoration; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the restoration and long term management of 61.71 acres of compensatory habitat and maintenance of 451.4 acres of created habitat, as established in the expired *Napa River Flood Protection Project ITP No. 2081-2008-014-03* and augmented in this ITP including revisions to the MMP to ensure performance standards are met, 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 restoration of temporarily impacted Covered Species habitat and the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and

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(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.

XVI. Attachments:

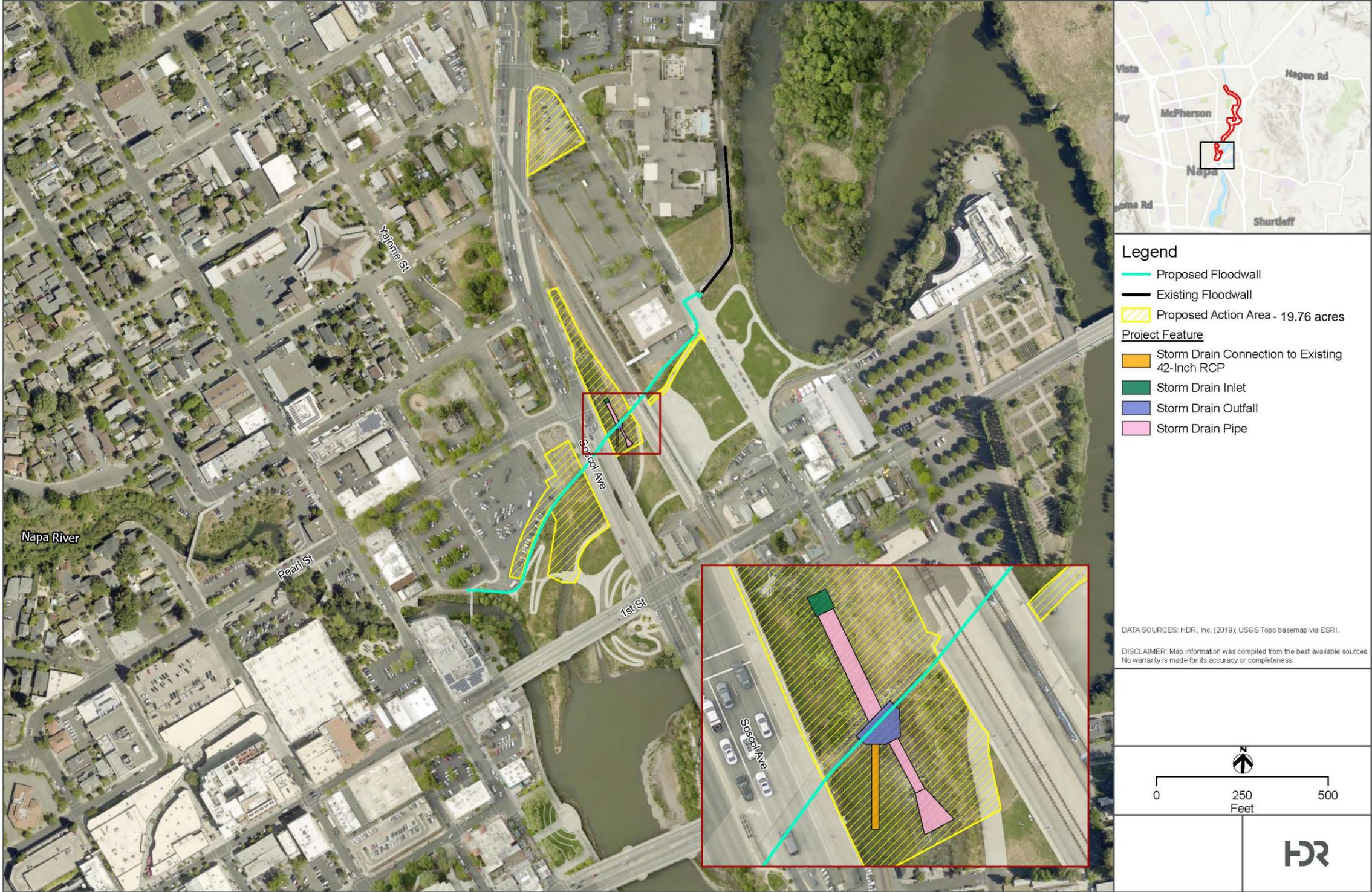
FIGURE 1	Project Location
FIGURE 2	Impacts: Dry Bypass Floodwall
FIGURE 3	Impacts: Lincoln Bridge
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Letter of Credit Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

ON 3/11/2026.

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

Figure 1. Project Location



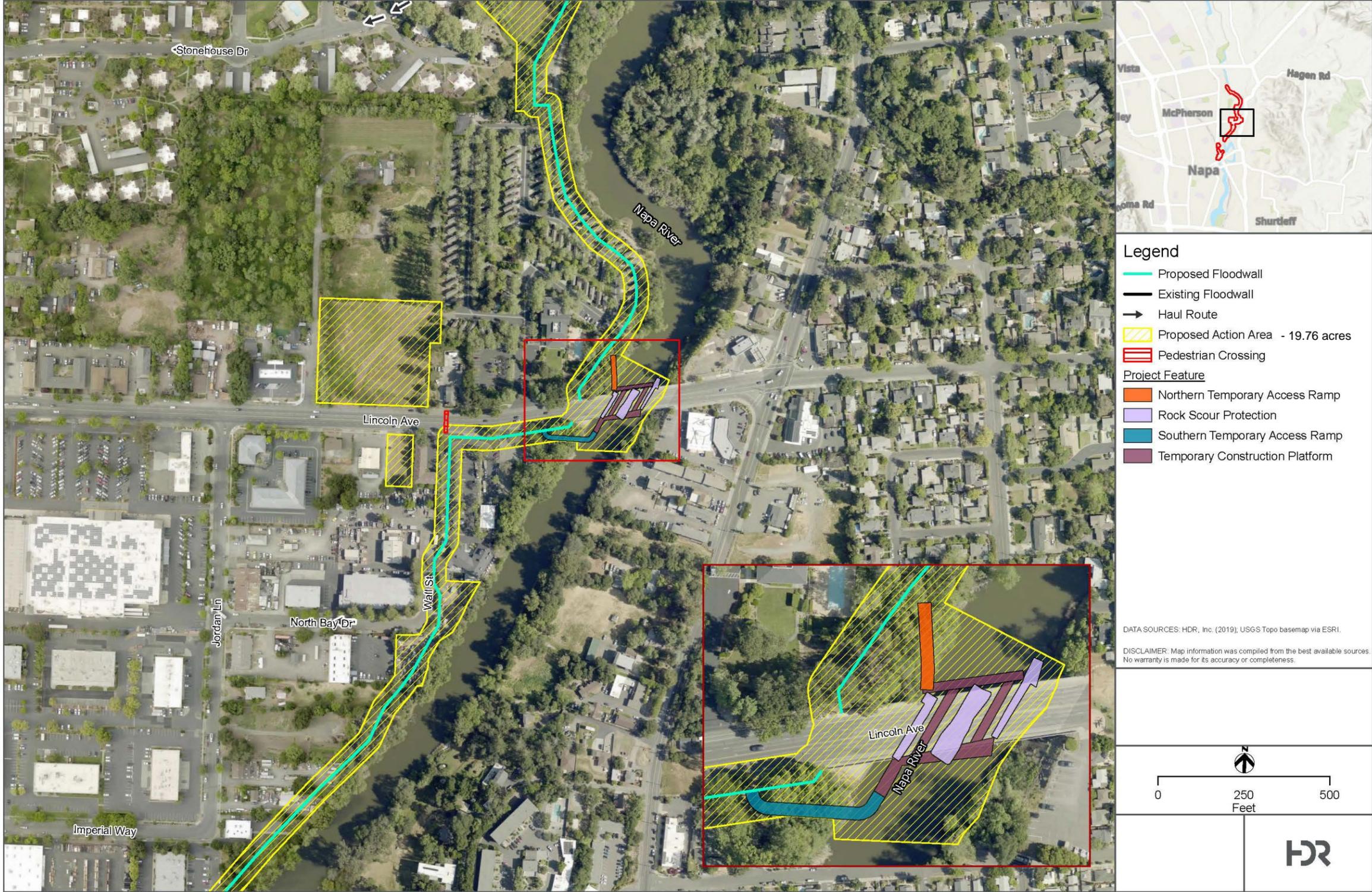
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Figure 1. Project Location



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Figure 1. Project Location



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Figure 1. Project Location



Figure 1. Project Location



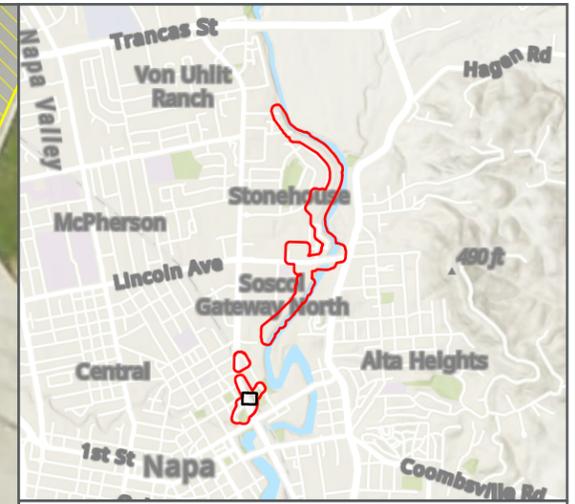
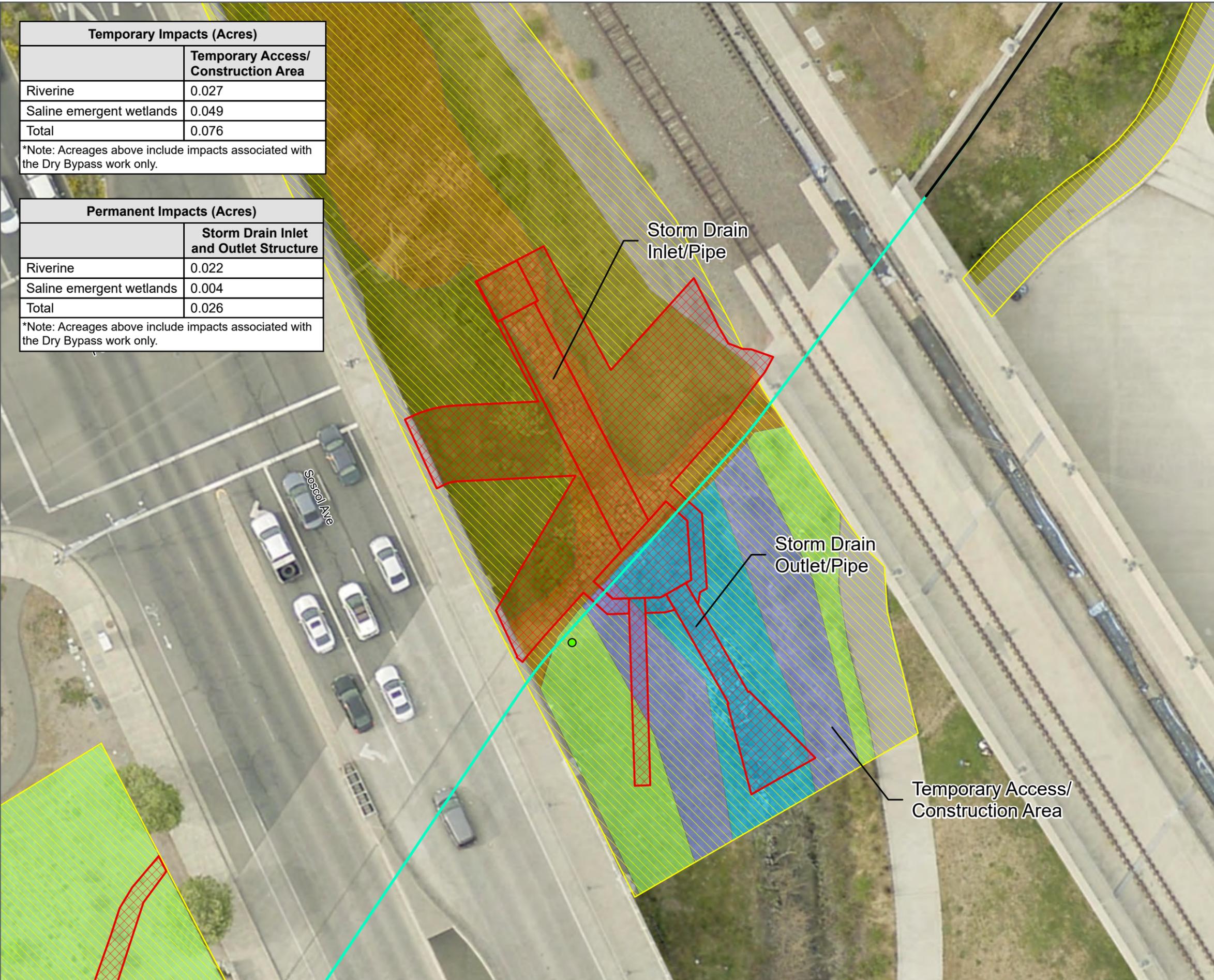
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Temporary Impacts (Acres)	
	Temporary Access/ Construction Area
Riverine	0.027
Saline emergent wetlands	0.049
Total	0.076

*Note: Acreages above include impacts associated with the Dry Bypass work only.

Permanent Impacts (Acres)	
	Storm Drain Inlet and Outlet Structure
Riverine	0.022
Saline emergent wetlands	0.004
Total	0.026

*Note: Acreages above include impacts associated with the Dry Bypass work only.



Legend

- Milkweed Locations
- Existing Floodwall
- Proposed Floodwall
- ▨ Permanent Impacts
- ▨ Temporary Impacts
- Annual Grassland
- Disturbed
- Landscaped
- Riverine
- Ruderal
- Saline Emergent Wetland
- Urban

Total Covered Species Habitat
Permanent Impacts
(Riverine and Saline Emergent Wetlands) - 0.026 acre

Total Covered Species Habitat
Temporary impacts
(Riverine and Saline Emergent Wetlands) - 0.076 acre

DATA SOURCES: HDR, Inc. (2024); USGS Topo basemap via ESRI.
DISCLAIMER: Map information was compiled from the best available sources. No warranty is made for its accuracy or completeness.

Figure 2.
IMPACTS
DRY BYPASS FLOODWALL

N

0 25 50
Feet

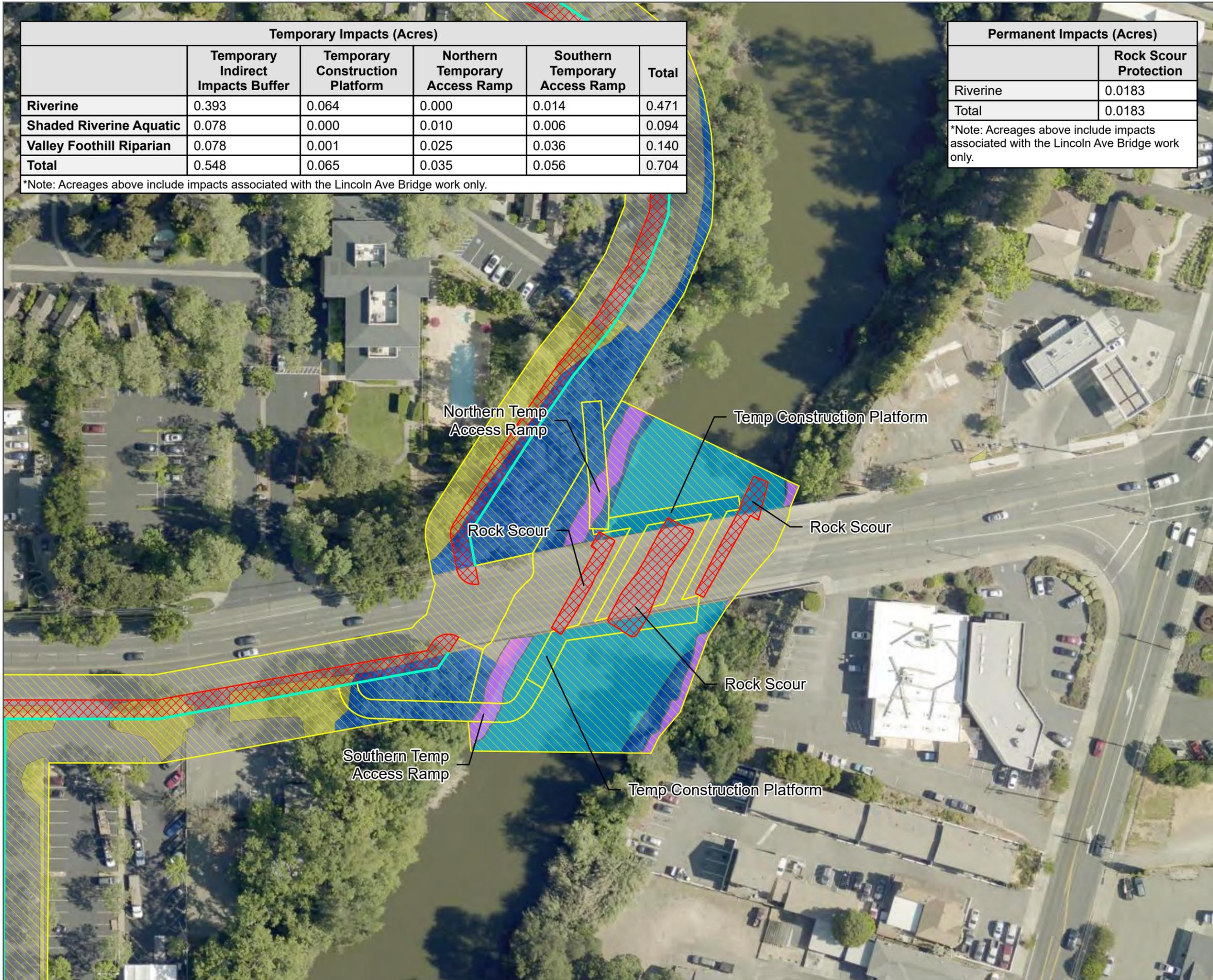
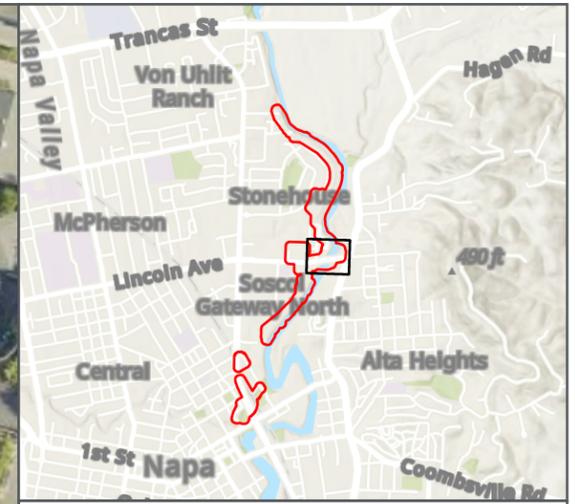
HDR

Temporary Impacts (Acres)					
	Temporary Indirect Impacts Buffer	Temporary Construction Platform	Northern Temporary Access Ramp	Southern Temporary Access Ramp	Total
Riverine	0.393	0.064	0.000	0.014	0.471
Shaded Riverine Aquatic	0.078	0.000	0.010	0.006	0.094
Valley Foothill Riparian	0.078	0.001	0.025	0.036	0.140
Total	0.548	0.065	0.035	0.056	0.704

*Note: Acreages above include impacts associated with the Lincoln Ave Bridge work only.

Permanent Impacts (Acres)	
	Rock Scour Protection
Riverine	0.0183
Total	0.0183

*Note: Acreages above include impacts associated with the Lincoln Ave Bridge work only.



Legend

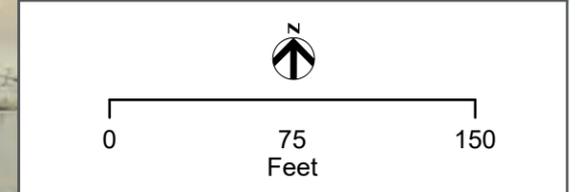
- Proposed Floodwall
- Permanent Impacts
- Temporary Impacts
- Shaded Riverine Aquatic Habitat
- Landscaped
- Riverine
- Urban
- Valley Foothill Riparian

Total Covered Species Habitat Permanent Impacts (Riverine only) - 0.0183 acres

Total Covered Species Habitat Temporary Impacts (Riverine and Shaded Riverine Aquatic) - 0.565 acres

DATA SOURCES: HDR, Inc. (2024); USGS Topo basemap via ESRI.
 DISCLAIMER: Map information was compiled from the best available sources. No warranty is made for its accuracy or completeness.

Figure 3. IMPACTS
 LINCOLN BRIDGE



Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2024-047-03

PERMITTEE: Napa County Flood Control and Water District

**PROJECT: Napa River/Napa Creek Flood Protection Project
– Floodwalls North of the Bypass**

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Designated Biologist(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) using the Biologist Resume Form (https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=202869) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(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) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
4	Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5	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.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
7	CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition # 6.14	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
8	Geographic Information Systems Data Files. Before starting Covered Activities, the Permittee shall provide CDFW with Geographic Information Systems (GIS) data files for permanent and temporary habitat impact areas authorized under this ITP for the Covered Species. The Permittee shall provide any additional GIS data files for the Project or related Covered Species features within 30 days of CDFW's request. All GIS data files shall be provided in a format acceptable to CDFW.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	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.	ITP Condition # 7.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
10	Work Period Restricted to Dry Season. Work within aquatic habitat in the Project Area shall be limited to the period from June 15 to October 15 (Dry Season).	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
11	<p>Work Period in Dry Weather Only. Project work shall be restricted to dry weather, as allowed during the work period specified in Condition of Approval 8.1. Permittee shall monitor the National Weather Service 72-hour forecasted precipitation. All necessary erosion control measures shall be implemented prior to the onset of precipitation. Construction activities shall cease when the National Weather Service 24-hour weather forecast indicates a 30 percent chance or higher of 0.25-inch or more of precipitation, unless otherwise approved in writing by CDFW. (For a weekly forecast see https://www.weather.gov/ and for a 48-hour percent precipitation forecast https://graphical.weather.gov/sectors/northcalifornia.php, click on QPF in Amount of Precipitation row, toggle +/- 12 hours). Construction equipment and materials shall be removed if inundation is likely. After any storm event, the Permittee shall inspect all sites currently under construction and all sites scheduled to begin construction within the next 72 hours for erosion and sediment problems and take corrective action as needed. Seventy-two-hour weather forecasts from the National Weather Service shall be consulted and work shall not resume until runoff ceases and there is less than a 30 percent forecast for precipitation for the following 24-hour period. Weather forecasts shall be documented upon request by CDFW.</p>	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
12	<p>Inspections for Covered Species. Before the start of Covered Activities, the Designated Biologist shall inspect all areas to be dewatered at the Dry Bypass and any areas where in-water work will occur at the Lincoln Avenue Bridge for any Covered Species. If found, Covered Species shall be removed by the Designated Biologist and relocated to a safe location (see Condition of Approval 8.9). Dewatering shall be limited to occurring at the Dry Bypass and in-water work shall be limited to occurring at the Lincoln Avenue Bridge.</p>	ITP Condition # 8.8	Before commencing ground- or vegetation-disturbing activities	Designated Biologist	

13	<p><u>Covered Species Dewatering and Rescue Plan (Dry Bypass Only)</u>. Dewatering may only occur at the Dry Bypass. If water is present at the Dry Bypass, then the Permittee shall develop a Dewatering and Species Capture and Relocation Plan for CDFW review and acceptance at least 30 days prior to the start of the Project. The plan shall include design plans and/or a figure indicating the location of the cofferdams and clear water diversion system, including location of the pump, sediment settling device, and reentry of water to the channel. Cofferdams shall be constructed as close as practicable to the work area. All coffer dam materials shall be removed from the creek upon Project completion within a timely manner. Normal flows shall be restored to the affected stream immediately upon completion of work at that location. If the coffer dams fail, they shall be repaired immediately. Diversion shall be conducted such that water does not scour the channel bed or banks. No other diversion method shall be used without authorization from CDFW. The plan shall also address the capture and relocation of Covered Species that may be present in the dewatered area. Authorization of any other diversion method shall be at the discretion of CDFW.</p> <p>a) Cofferdams shall only be closed during low tide events to minimize Covered Species capture and stranding.</p> <p>b) Capture methods of Covered Species may include dip nets. All nets shall be made of a soft braided nylon material that is non-abrasive. Mesh sizing shall be matched to species and the life stages likely encountered. Capture and handling of Covered Species shall be minimized and the number of animals captured and moved at any one time shall be limited to the number that can be relocated without stress or injury.</p> <p>c) Covered Species shall be processed before other fish species and released as soon as possible during rescue operations. Species name and length data shall be recorded on data sheets, as well as time, date, location, gear type, water temperature, salinity and any other pertinent observations of the Covered Species.</p> <p>d) No one may remove any Covered Species, dead or alive, from the site for personal use.</p> <p>e) Because of the potential for mortality during rescue, if any Covered Species are killed, the individuals shall be preserved via freezing or placing in a container with 10 percent formalin solution. Information on time and exact location of any incidental take, method of take, length of time from death to preservation, water temperature, and any other relevant information shall be recorded in writing. Permittee shall contact the CDFW regional representative for instructions on transmitting preserved individuals, as required by Condition 7.6.</p> <p>f) If any dead fish cannot be positively identified in the field, the Permittee shall bag, label, and deliver the specimen to the previously named CDFW or USFWS laboratory (see above) for positive identification. Frozen fish shall be kept as cold as possible. If identification will not occur on the same day as capture, the fish shall be placed in a</p>	ITP Condition # 8.9	Before commencing ground- or vegetation-disturbing activities	Permittee	
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<p>freezer. Each bag shall have a waterproof paper tag with date, time, and location caught.</p> <p>g) Prior to handling Covered Species, all hands and equipment shall be wetted down with pond water and shall be free of any materials including hand sanitizers, sunscreen, or insect repellent. No Covered Species shall be handled with dry hands or dry equipment.</p> <p>h) If live wells or holding facilities will be used during capture and relocation, the following measures shall be implemented:</p> <ul style="list-style-type: none"> • An aeration system shall be used in any live well or other holding facility. The aerator shall be operating prior to placing Covered Species in it to ensure that sufficient oxygen is present during the adjustment period and to minimize the build-up of toxic carbon dioxide in holding waters. The aeration rate and the number of Covered Species in each holding facility shall be managed such that the dissolved oxygen concentration shall be maintained above 6 parts per million. • Water from the local collection site shall be used in live wells or other holding facilities during the loading and transport. At no time will chlorinated tap water be used. • Live wells or other holding facilities shall be sufficiently sized to minimize stress. • Dotted smartweed (<i>Persicaria punctata</i>) shall not be placed or allowed to enter live wells or holding facilities. • Water temperatures within any live well or other holding facility shall be kept at or below water temperature at the collection site. Temperatures must be managed in such a way as to minimize stress; for example, floating a sealed bag of ice in each container. <p>i) Before and after each relocation effort all equipment shall be properly sterilized to ensure it is free of aquatic pathogens or invasive species. Equipment sterilization shall follow prevention Best Management Practices such as those prepared by CDFW's Northern Region, https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=92821&inline, or other methodology accepted by CDFW in writing.</p> <p>j) The pump intake apparatus shall be screened with a fine mesh screen. The screen shall be cleaned as needed. The following National Marine Fisheries Service (NMFS) fish screening requirements shall be implemented:</p> <ul style="list-style-type: none"> • A self-cleaning screen shall have at least 2.5 square feet of submerged screen material for each cubic foot per second (450 gallons per minute) of the maximum diversion rate. • A screen which is not self-cleaning shall have at least 5 square feet of submerged screen material for each cubic foot per second of the maximum diversion rate. 				
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Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<ul style="list-style-type: none"> • Round openings in the screen shall not exceed 3/32-inch diameter, square openings shall not exceed 3/32-inch measured diagonally, and slotted openings shall not exceed 0.069 inches in width. • The screen may be constructed of any rigid woven, perforated, or slotted material that provides water passage while physically excluding fish. Screen material shall provide a minimum of 27% open area, but more open area is better. Stainless steel is recommended to minimize corrosion problems. • The screen shall be designed to distribute the flow uniformly over the entire screen area. The screen face generally should be parallel to the flow of the stream. • The screen shall be cleaned as frequently as necessary to prevent the approach velocity from exceeding 0.4 feet per second. The screen shall be kept in good repair and shall be used whenever water is being pumped. The applicant is advised to consult with NMFS to ensure that all their design criteria are being met. <p>k) Once water has been diverted around the work area, the site shall be dewatered to provide an adequately dry work area. Any muddy or otherwise contaminated water shall be pumped to a settling tank, dewatering filter bag, upland area, or other CDFW-approved location prior to re-entering the stream.</p> <p>l) The Designated Biologist shall check daily for stranded Covered Species as the water level in the dewatering area drops and until dewatering facilities are removed. All stranded Covered Species in the dewatered areas shall be immediately relocated to the nearest suitable habitat. Capture and relocation shall be conducted in a manner that minimizes stress and injury to captured Covered Species.</p> <p>m) After completing the fish rescue, the Designated Biologist shall prepare a brief documentation report. The report shall contain the information required in Condition of Approval 8.9, and information on the personnel conducting the rescue, methods used, number of each species collected and relocated, and an estimate of the survival rate of Covered Species immediately after release. Photographs of the site and rescue operations shall be included. The report shall be provided by the Permittee to CDFW, USFWS, and National Marine Fisheries Service within 30 days of completing the fish rescue.</p> <p>n) All cofferdams or temporary diversion dams shall be installed on or after June 15 and removed by October 15 of each year.</p>				

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	Inspection of Project Equipment. Permittee shall inspect all vehicles, cofferdams, pipes, pumps, tools, waders and boots, and other project related equipment and remove all visible soil/mud, plant materials, and animal remnants prior to entering and exiting the Project Area and/or between each use in different waterbodies.	ITP Condition # 8.10	Before commencing ground- or vegetation-disturbing activities	Permittee	
15	Decontamination of Small Project Equipment. Permittee shall decontaminate all tools, waders and boots, and other small equipment that will enter the water prior to entering and exiting the Project Area and/or between each use in different waterbodies to avoid the introduction and transfer of organisms between waterbodies. Permittee shall decontaminate Project gear and equipment utilizing one of three methods: drying, using a hot water soak, or freezing, as appropriate to the type of gear or equipment. For all methods, Permittee shall begin the decontamination process by thoroughly scrubbing equipment, paying close attention to small crevices, such as bootlaces, seams, net corners, etc., with a stiff-bristled brush to remove all organisms. To decontaminate by drying, Permittee shall allow equipment to dry thoroughly (i.e., until there is a complete absence of water), preferably in the sun, for a minimum of 48 hours. To decontaminate using a hot water soak, Permittee shall immerse equipment in 140°F or hotter water and soak for a minimum of 5 minutes. To decontaminate by freezing, Permittee shall place equipment in a freezer 32°F or colder for a minimum of 8 hours. Repeat decontamination is required only if the equipment/clothing is removed from the Project Area, used within a different waterbody, and returned to the Project Area.	ITP Condition # 8.11	Before commencing ground- or vegetation-disturbing activities	Permittee	
16	Decontamination of Vehicles and Large Equipment. Permittee shall decontaminate vehicles and other large equipment that will enter the water, which are too large to immerse in a hot water bath by pressure washing with hot water a minimum of 140°F at the point of contact or 155°F at the nozzle, or by using other effective techniques with written approval from CDFW.	ITP Condition # 8.12	Before commencing ground- or vegetation-disturbing activities	Permittee	
17	Decontamination Sites. Permittee shall perform decontamination of vehicles, watercraft, and other Project gear and equipment in a designated location where runoff can be contained and not allowed to pass into water bodies and other sensitive habitat areas.	ITP Condition # 8.13	Before commencing ground- or vegetation-disturbing activities	Permittee	

18	<p>Habitat Restoration and Long-Term Management: CDFW has determined that habitat restoration and long-term management are necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.</p> <p>CDFW has determined that the Permittee has partially met this requirement. Permanent impacts to 19.13 acres and temporary impacts to 1.44 acres of Covered Species habitat were previously permitted under the expired Napa River Flood Protection Project ITP No. 2081-2008-014-03, which required the Permittee to: 1) restore/manage at least 61.71 acres of Covered Species habitat in the Napa River or Napa Creek, and 2) maintain 451.4 acres of created Covered Species habitat, as further described in the separate MMP. Restored Covered Species habitat has successfully met all performance standards and managed as described in the MMP, with the exception of the "Presence/Absence of Native Species" performance standard. As part of implementing the Project, the Permittee also reduced flood risk to surrounding residents by restoring and enhancing the more natural path and flow of Napa River and Napa Creek, which created 495.15 acres of Covered Species habitat. However, only 7.344 acres of permanent impacts to Covered Species habitat were completed under the expired ITP due to Project redesign, and additional impacts other than those covered by this current ITP are not expected. Therefore, this previously completed mitigation partially covers the permanent loss of 0.044 acre of habitat for the Covered Species as a result of the Project.</p> <p>To fully meet this requirement, pursuant to Conditions of Approval 9.1 to 9.4 the Permittee shall:</p> <ul style="list-style-type: none"> • Revise the MMP to include improved maintenance of shallow water habitat to ensure achievement of the "Presence/Absence of Native Species" performance standard within the 451.4 acres of created Covered Species habitat, • Conduct long-term monitoring and management of the 451.4 acres of created Covered Species habitat outlined in the MMP for a minimum of 10 years, and • Restore 0.049 acre of temporarily impacted Covered Species habitat (saline emergent wetlands at the Dry Bypass as shown on Figure 2. <p>The Permittee shall complete the revision of the MMP before starting Covered Activities, or within 60 days of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. The Permittee shall conduct long-term management of the created and restored Covered Species habitat for a minimum of 10 years after the Project is completed. The Permittee shall restore temporarily impacted Covered Species habitat no later than October 31 of the year Project construction at the Dry Bypass is completed.</p>	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 60 days of issuance of the ITP if Security is provided). The Permittee shall conduct long-term management of the created and restored Covered Species habitat for a minimum of 10 years after the Project is completed.	Permittee	
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	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<p><u>Cost Estimates.</u> For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete restoration and management of the 451.4 acres of Covered Species habitat and restoration of temporarily disturbed Covered Species habitat as follows:</p> <p>Revision of MMP as described in Condition of Approval 9.2, estimated at \$11,000.</p> <p>Long-term management funding as described in Condition of Approval 9.3 estimated at \$11,000 annually for 10 years, therefore the estimated cost is \$110,000.</p> <p>Restoration of 0.049 acre of temporary impacts to Covered Species habitat as described in Condition of Approval 9.4 estimated at \$2,916.</p> <p>All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to habitat restoration and management. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work, estimated at \$20,000.</p>	ITP Condition # 9.1, 9.1.1, 9.1.2, 9.1.3, 9.1.4	Before commencing ground- or vegetation-disturbing activities (or within 60 days of issuance of the ITP if Security is provided). The Permittee shall conduct long-term management of the created and restored Covered Species habitat for a minimum of 10 years after the Project is completed.	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
20	<p>Habitat Restoration and Long-Term Management Plan. The Permittee shall revise the MMP for CDFW review within 60 days of the effective date of this ITP. Permittee shall obtain written approval of the revised MMP from CDFW and shall implement the revised MMP in the same calendar year as the completion of Project construction, no later than December 31. The revised MMP shall describe improved maintenance of the 451.4 acres of created shallow water habitat to ensure achievement of the "Presence/Absence of Native Species" performance standard. The revised MMP shall include a minimum of 10 years of annual monitoring and management of the created and restored habitat identified in the MMP as further described below. Monitoring may be required for more than 10 years if performance standards are not met. The MMP shall also detail assurance that access for monitoring and maintenance will be provided by the landowner for the duration of the monitoring period, and a requirement that the landowner not modify the Covered Species habitat mitigation areas. In addition, the Permittee shall provide ongoing reporting to CDFW consistent with the MMP reporting requirements until all habitat restoration, monitoring, and management described in the MMP are completed.</p> <p>The revised MMP shall describe monitoring and management of habitat for a minimum of 10 years to ensure the long-term viability of the habitat mitigation, which includes a description of how monitoring and management of such habitat will be conducted for the benefit of the Covered Species. Long-term monitoring and management shall be conducted in year zero for baseline and annually for a minimum of 10 years. The MMP shall include preparation of an annual monitoring report from years zero through 10. All reports shall be submitted to CDFW by December 31 of the year in which they are required.</p> <p>Vegetation Monitoring. Monitoring reports shall include: (1) a map of habitat management areas, (2) a description of vegetation conditions and information necessary to show compliance with Condition of Approval 9.2 including but not limited if performance standards are being met and an updated aerial image based map, (3) dated photographs starting from year zero (i.e., baseline) showing the status of habitat management areas from several vantage points that are consistently used annually to show annual progress, and (4) a schedule for any future remediation actions.</p>	ITP Conditions # 9.2, 9.2.1	Before commencing ground- or vegetation-disturbing activities (or within 60 days of issuance of the ITP if Security is provided). The Permittee shall conduct long-term management of the created and restored Covered Species habitat for a minimum of 10 years after the Project is completed.	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
21	<p>Long-Term Management Funding. Permittee shall ensure that habitat restoration areas are managed, maintained, and monitored for a minimum of ten years as described in this ITP. Permittee shall provide a minimum of ten years of monitoring and management funding for activities outlined in the final CDFW-approved revised MMP consistent with Condition of Approval 9.2.</p>	<p>ITP Conditions # 9.3</p>	<p>Before commencing ground- or vegetation-disturbing activities (or within 60 days of issuance of the ITP if Security is provided). The Permittee shall conduct long-term management of the created and restored Covered Species habitat for a minimum of 10 years after the Project is completed.</p>	<p>Permittee</p>	
22	<p>Habitat Restoration for Temporary Impacts. Permittee shall restore on-site the 0.049 acre of Covered Species habitat (saline emergent wetlands as shown on Figure 2) that will be temporarily impacted during Dry Bypass construction to pre-Project or better conditions. At least 30 days prior to the initiation of Project construction, the Permittee shall submit a Restoration Plan (Plan) to CDFW for approval to facilitate revegetation and restoration of the 0.049 acre of temporary construction impacts on-site. The Permittee shall obtain CDFW's written approval of the Plan and ensure that the Plan is successfully implemented. The Plan shall identify plant species that will be damaged or removed during Project activities and include detailed specifications for restoring all temporarily impacted areas, such as plant species, seed mixes, and their application methods. For seeding and mulching exposed slopes, the seed blend shall include locally native grass species at a ratio appropriate to the site. The Plan shall also indicate the best time of year for seeding to occur; three (3) years of monitoring, maintenance, and reporting; and performance standards. Permittee is responsible for monitoring and maintaining the restored areas until the Plan performance standards have been met. The Plan may include initial watering of plantings to facilitate adequate growth if necessary, however no additional watering shall occur unless otherwise approved in writing by CDFW. Permittee shall complete seeding/planting as soon as possible, but no later than October 31 of the year of impact. At the discretion of CDFW, all exposed areas where seeding/planting is unsuccessful after 90 days shall receive appropriate soil preparation and a second application of seeding/planting, straw, or mulch as soon as is practical on a date mutually agreed upon.</p>	<p>ITP Conditions # 9.4</p>	<p>At least 30 days prior to the initiation of Project construction the Permittee shall submit a Restoration Plan to CDFW for approval. The Permittee shall restore temporarily impacted Covered Species habitat no later than October 31 of the year Project construction at the Dry Bypass is completed.</p>	<p>Permittee</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	<p>Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>Security Amount. The Security shall be in the amount of \$143,916 or in the amount identified in 9.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, sufficient for CDFW or its contractors to complete restoration, long-term management, and monitoring.</p> <p>Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.</p> <p>Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>Security Transmittal. Permittee shall transmit security to CDFW by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.</p>	ITP Conditions # 10, 10.1 to 10.5	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.	Permittee	
DURING CONSTRUCTION					
24	Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist in the performance of 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.	ITP Condition # 6.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
25	Construction Monitoring Documentation. The Designated Biologist(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 Area upon request by CDFW.	ITP Condition # 6.5	Entire Project	Designated Biologist	
26	Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 6.7	Entire Project	Permittee	
27	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 the Project Area.	ITP Condition # 6.8	Entire Project	Permittee	
28	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. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.11	Entire Project	Permittee	
29	Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.	ITP Condition # 6.12	Entire Project	Permittee	
30	Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 6.13	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	Notification of Non-Compliance. The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.	ITP Condition # 7.3	Entire Project	Designated Representative	
32	<p><u>Compliance Monitoring.</u> The Designated Biologist shall be on-site daily when Covered Activities occur at the Dry Bypass and Lincoln Avenue Bridge, and weekly when Covered Activities occur elsewhere throughout the Project Area, unless otherwise approved in writing by CDFW. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after dewatering is completed. The Designated Biologist shall conduct compliance inspections to:</p> <ul style="list-style-type: none"> • minimize incidental take of the Covered Species; • prevent unlawful take of species; • check for compliance with all measures of this ITP; • check all exclusion zones; and • ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. <p>The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.</p>	ITP Condition # 7.4	Entire Project	Designated Biologist	
33	Reporting of Habitat Impacts. Permittee shall monitor, calculate, and record in an electronic ledger the total amount of permanent and temporary impacts to Covered Species habitat and shall at a minimum account for these impacts based upon habitat type.	ITP Condition # 7.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
34	<p>Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (707) 428-2002. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.</p> <p>If any Covered Species are killed, the individuals shall be preserved via freezing or placing in a container with 10 percent formalin solution. Information on time and exact location of any incidental take, method of take, length of time from death to preservation, water temperature, and any other relevant information shall be recorded in writing. Permittee shall contact the CDFW regional representative for instructions on transmitting preserved individuals.</p>	ITP Condition # 7.6	Entire Project	Permittee	
35	<p>Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Conditions of Approval 7.3, 7.4, 7.5, and 7.6 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Nick Wagner (Nicholas.Wagner@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.</p>	ITP Condition # 7.7	Entire Project	Designated Representative / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
36	Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.7; (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 temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 7.8	Entire Project	Permittee	
37	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.	ITP Condition # 7.9	Entire Project	Designated Biologist	
38	Time of Day Work Restriction. Permittee shall begin Covered Activities at least 30 minutes after sunrise and terminate all Covered Activities at least 30 minutes before sunset, unless otherwise approved in writing by CDFW. The Permittee shall use sunrise and sunset times established by the U.S. Naval Observatory Astronomical Applications Department for determining when Covered Activities shall terminate and resume.	ITP Condition # 8.3	Entire Project	Permittee	
39	Erosion Control. At no time shall silt-laden runoff be allowed to enter a river or stream or directed to where it may enter a river, stream, or lake. All erosion and sediment control measures shall be installed prior to earth-moving Covered Activities. Erosion control measures shall be utilized throughout all phases of operation where sediment runoff from exposed slopes threatens to enter a river or stream. Erosion control measures, such as, silt fences, straw hay bales, gravel or rock lined ditches, water check bars, and broadcasted straw shall be used wherever sediment has the potential to leave the work site and enter the river or stream. The Designated Biologist(s) shall monitor erosion control measures before, during, and after each storm event and Permittee shall repair and/or replace ineffective measures immediately.	ITP Condition # 8.4	Entire Project	Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
40	Spoil Pile Stabilization. Soil stockpiles shall be placed where soil cannot erode or wash into a river or stream. Permittee shall stabilize active and non-active spoil piles with native grass hydro-seed, erosion control fabric, straw, or other biodegradable material by October 15 of each year of the Project. Plastic and other synthetic materials shall not be used. Fiber rolls shall be placed around the perimeter of non-active spoil piles, and slope breaks shall be utilized on the slopes of non-active spoil piles. Active spoil piles shall be covered/stabilized adequately when rainy conditions are evident (see Condition of Approval 8.2) or at any time when spoil material could enter a river or stream. No spoil shall be placed on the river or stream side. Excavated spoil shall be removed to an area where the sediment will not deliver to a river or stream.	ITP Condition # 8.5	Entire Project	Permittee	
41	Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention Best Management Practices (BMPs) and guidelines for invasive plants can be found on the California Invasive Plant Council's (Cal-IPC) website at: https://www.cal-ipc.org/solutions/prevention/ and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: https://stopaquatic hitchhikers.org/ .	ITP Condition # 8.6	Entire Project	Permittee	
42	Work in Isolation from Flowing Water. All work shall be conducted in isolation from flowing water, with the exception of in-water work at the Lincoln Avenue Bridge as described in the Project Description above. The work area at the Dry Bypass shall be dewatered if water is present pursuant to the Covered Species Dewatering and Rescue Plan approved in advance and in writing by CDFW as specified in this ITP (see Condition of Approval 8.9).	ITP Condition # 8.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
43	<p>Temporary Work Pad. Material used to construct the temporary work pad at the Lincoln Avenue Bridge shall consist of clean river run gravel, clean boulders, super sacks filled with clean gravel or rock, or other material approved in writing by CDFW. Fill may be topped with a layer of crushed aggregate. If used, aggregate shall be removed after work is completed without allowing any aggregate to fall into the Napa River. Work pad material shall be installed by either: 1) slowly lowering a bucket to the bed or top layer of previously placed material and slowly tipping the bucket, or 2) slowly placing individual pieces of material on the bed or top layer of previously placed material using a crane grapple, excavator bucket with thumb, or similar equipment. Material shall not be dropped from any height into water. Work pad material shall be removed individually, piece by piece, using a crane grapple, excavator bucket with thumb, or similar equipment. Temporary work pad material shall not be scooped from below. During installation and removal of the work pad, a Designated Biologist shall be on-site to ensure it is installed and removed in a manner that will not trap fish. If water is present where material is to be added, the Designated Biologist shall physically sweep the wetted area in advance of work to ensure fish have left the area prior to material placement or removal. The Designated Biologist shall have the right to halt work at any time if they believe the work is too rapid and is endangering fish or generating excess turbidity.</p>	ITP Condition # 8.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
44	<p>Turbidity Minimization During In-Water Work at Lincoln Avenue Bridge. Permittee shall minimize the effects of turbidity during in-water work at Lincoln Avenue Bridge by implementing the below minimization measures.</p> <p>a. Silt Curtain: A silt curtain shall be used as an impermeable barrier typically constructed of a flexible reinforced thermoplastic material. It shall be used to contain the suspended sediment plume generated during in-water work so that the sediments will settle out of suspension within a controlled area. The upper hem shall have a floatation material and the lower hem shall have ballast material. The barrier shall be maintained as needed to prevent sagging, breaking, or overtopping.</p> <p>b. Turbidity Monitoring: Turbidity monitoring shall be conducted downstream and upstream of the work area in areas not influenced by turbidity above ambient levels. Location of appropriate reference areas will depend on Project specific conditions and shall be determined with CDFW written approval. Permittee shall record: 1) pre-Project turbidity levels, 2) turbidity levels once-per-week during Project activities, and 3) turbidity levels five days following Project completion. Each sample site shall include data for two bathymetric strata: one from the bottom of the water column and one from the middle of the water column. All data shall be maintained in a log on-site and shall be available for immediate inspection. Within 10 days of completion of Project activities, the Permittee shall email a copy of the sample log and results to CDFW.</p> <p>c. Turbidity Reporting: In the event of a turbidity increase of 15 Nephelometric Turbidity Units (NTUs) above ambient levels, the Permittee shall cease Project activities and notify CDFW by phone or email at the contact information below within 24 hours of the incident. Activities may resume when turbidity levels return to less than 15 NTUs above ambient levels. Within five business days of completion of Project activities, the Permittee shall email a copy of the sample log to CDFW at the contact information below.</p>	ITP Condition # 8.15	Entire Project	Permittee	
45	Pile Driving Prohibited: No pile driving shall occur during the Project.	ITP Condition # 8.16	Entire Project	Permittee	
POST-CONSTRUCTION					
46	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.	ITP Condition # 6.15	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 7.10	Post-construction and after completion of mitigation	Permittee	

[Financial institution letterhead]

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

Issue Date: **[date]**

Beneficiary:

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

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

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

Dear Sirs:

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

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

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

referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 960 Riverside Parkway, Suite 90, West Sacramento, CA 95605, Attn: HCPB Mitigation Funds; and (ii) for the Applicant: [***name and address of applicant***].

15. This Credit may not be transferred.

16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the laws of the State of California.

17. This Credit shall, if not canceled, expire on [***expiration date***], or any extended expiration date.

18. We hereby agree with CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.

19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[Name of financial institution]

By: _____

Name: _____

Title: _____

Telephone: _____

ATTACHMENT A

CERTIFICATE FOR DRAWING

[**CDFW Letterhead**]

[**Date**]

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

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

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

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

Therefore, CDFW has executed and delivered this Certificate as of this ___ day of [**month**], [**year**].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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

ATTACHMENT B

CERTIFICATE FOR CANCELLATION

[CDFW Letterhead]

[Date]

[Name and address of financial institution]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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